

UTTAR PRADESH MUNICIPALITIES (ELECTION MEMBERS, OF CORPORATORS, CHAIRMAN AND MAYORS) RULES, 2010

Uttar Pradesh Municipalities (Election of Members, Corporators, Chairman and Mayors) Rules, 2010 in exercise of the powers under Section 87 and Section 540 of the Uttar Pradesh Municipal Corporation Act, 1959 (UP. Act 11 of 1959) and sub-section (1) read with clause (a) of sub-section (2) of Section 296 and Section 300 of the Uttar Pradesh Municipalities Act, 1916 (U.P. Act 11 of 1916) and in supersession of all the previous rules and orders issued in this behalf, the Governor, after considering the objections and suggestions received in pursuance of order published in Government Notification No. 418/9-1-10-01 GEN/2010, dated May 11, 2010 as required by sub-section (2) of Section 540 of the said Act of 1959 and the sub-section (1) of Section 300 of the said Act 1916, is pleased to make the following rules I. Short title and commencement—(1) These rules may be called the Uttar Pradesh Municipalities (Election of Members, Corporators, Chairman and Mayors) Rules, 2010. (2) They shall be applicable in all the Municipalities in the State. (3) They shall come into force with effect from the date of their publication in the Gazette

2. Definitions—(1) In these rules, unless there is anything repugnant in the subject or context— (a) "Act" means the Uttar Pradesh Municipal Corporation Act, 1959 or the Uttar Pradesh Municipalities Act, 1916 as the case may be. (b) "Collector" means Collector appointed under Section 14 of the United Provinces Land Revenue Act, 1901 for the District within which the Municipalities, exercises the jurisdiction for the same Act for such District and includes an Additional Collector appointed under Section 14 clause (a) of the same Act and to whom the Collector may have by order in writing delegated any functions under the relevant Acts. (c) "Commission" means the State Election Commission constituted under Article 243-K of the Constitution of India. (d) "Contesting candidate" means a candidate whose name is included in the list of contesting candidate (e) "District Election Officer" means the officer designated or nominated under these rules. (f) "Noti. No. 185719-1-2010-OI-GEN/IO dated 18 June, 2010 Published in UT. Gazette Extra, Part 4. Section (Kha), dated 18th June 2010. (g) (h) (i) (j) (k) (l) (m) U.P. MUNICIPALITIES ACT, 1916 "District Magistrate" means the District Magistrate appointed under Section 20 of the Code of Criminal Procedure, 1973. "Divisional Commissioner with reference to a Municipalities means the Commissioner appointed under Section 12 of the United Provinces land Revenue Act, 1901 for the Division Within which the Municipalities exercises its jurisdiction and includes an Additional Commissioner appointed under Section 13 of the said Act for such Division. "Election" means an election to fill the office of a member: or Corporator or the Chairman or the Mayor as the case may be of a municipality. "Election return" means an election return in a Form specified by the State Election Commission. "Elector" means a person registered as elector in the electoral roll prepared for a territorial area of a Municipality "Municipality" means an institution of self-Government constituted under Article 243-Q. "Polling return" means a pro forma for polling return specified by the State Election Commission. "Public holiday" means any day which is a public holiday for the purpose of Section 25 of the Negotiable Instruments Act, 1881 (Act 26 of 1881). "State Election Commissioner" means the State Election Commissioner appointed under Article 243-K of the Constitution of India. (o) "Symbol" means a symbol included in the list prepared under Rule 27. (2) Words and expressions used but not defined in these rules shall have the meaning assigned to them in the Act

3. Language of Form—The Forms, notices, lists and orders prepared or issued under these rules shall be in Hindi in Devnagri script

4. Conduct of elections—(1) The superintendence direction and control of the conduct of the elections of the corporators, members, chairmen and mayors of municipalities shall be vested in the State Election Commission. An election shall be conducted in accordance with provisions of these rules. (2) The election to the post of members, corporators, chairperson and mayor of the municipalities shall not be contested on the basis of political parties 5. District Election Officer—(i) For each district in the State, the Commission shall, in consultation with the State Government, designate or nominate a district election officer who shall be an Officer of the State Government: U. p. MUNI. (ELEC. OF MEM., COR., CHAIRMAN & MAYORS) RULES, 2010 provided that the Commission may designate or nominate more than one such officer for a district if the Commission is satisfied that the functions of the office cannot be performed

satisfactorily by one officer. (2) Where more than one district election officer are designated or nominated for a district under sub-rule (1), the Commission shall in the order designating or nominating the district election officers also specify the area in respect of which each such officer shall exercise jurisdiction. (3) Subject to the superintendence, direction and control of the State Election Commission, the district election officer shall coordinate and supervise all work in connection with the conduct of elections in the district within his or her jurisdiction. (4) The district election officer shall also perform such other function as may be entrusted to him or her by the Commission

6. District election officers, etc., deemed to be on deputation to the Commission—The officers referred to in Rule 12 and any other officer or staff employed in connection with the conduct of, all elections shall be deemed to be on deputation to the Commission for the period during which they are so employed and such officers and staff shall, during the period, be subject to the control, superintendence and discipline of the Commission

7. Notification for general election to the Municipalities—(1) A general election shall be held for the purpose of constituting a new Municipality before the expiration of the duration of the existing Municipality or on its dissolution. (2) Rule 7(2) For the said purpose, the Commission shall by one or more notifications published in the Gazette on such date or dates, call upon the wards or constituencies to elect the Chairman or Mayor, members or the Corporators, as the case may be, in accordance with the provisions of these rules and orders made there under: Provided that where a general election is held otherwise than on the dissolution of the existing Municipalities, no such notification shall be issued at any earlier than six months prior to the date on which the duration of that Municipality would expire

8. Delegation of functions of Commission—The functions of the Commission under these rules or orders issued there under may, subject to such general or special directions, if any, as may be given by the Commission in this behalf, be performed also by an Additional Election Commissioner, a Deputy Election Commissioner, a Joint Election Commissioner, an Assistant Election Commissioner, if any, or by the Secretary to the Commission. 9. Observers—(1) The Commission may nominate one or more Observers, who shall be an officer of the State Government, to watch the conduct of election or elections in a Municipality or a group of Municipalities and to perform such other functions as may be entrusted to him or her by the Commission. U.P. MUNICIPALITIES ACT, 1916 (2) An observer nominated under sub-rule (1) shall have the power to direct the returning officer for a Municipality or Municipalities for which he or she has 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 Observer 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 or voting machines 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 incidentally or intentionally destroyed or lost or are damaged or tampered with to such an extent that the result of the poll of that polling station or place cannot be ascertained. (3) Where an observer has directed the returning officer under this 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 under these Rules. Explanation—For the purposes of sub-rule (2) and sub-rule (3), "Observer" shall include any such officer of the Commission as has been assigned under this rule the duty of watching the conduct of election or elections in a Municipality or group of Municipalities by the Commission. 10. Returning officers—For every election to fill a seat or seats in the Municipalities, the Commission or the district election officer authorized by the Commission in this behalf shall, designate or nominate a returning officer who shall be an officer of the State Government or of a local authority: Provided that nothing in this rule shall prevent the Commission from designating or nominating the same person to be the returning officer for more than one Municipalities

11. Assistant returning officers—(1) The Commission or the District Election Officer authorized by the Commission in this behalf, may appoint one or more person to assist any returning officer in the performance of his or her functions: Provided that every such person shall be an officer of the State Government or of a local authority. (2) Every assistant returning officer shall, subject to the control of the returning officer, be competent to perform all or any of the functions of the returning officer: Provided further that no assistant returning officer shall perform any of the functions of the returning officer which

relates to the scrutiny Of nominations unless the returning officer is unavoidably prevented from performing the said function

12. Returning officer to include assistant returning officers performing the functions of the returning officer—References in these rules to the returning officer shall, unless the context otherwise requires, be U. p. MUNI. (ELEC. OF MEM., COR., CHAIRMAIN & MAYOR8) RULEg, 2010 446 deemed to include an assistant returning offlcer performing any function which he or she is authorlzed to perform under gub-rule (2) of Rule 11

13. General duty of the returning officer—It shall be the general duty of the returning officer at any election to do all such acts or things as may be necessary for effectually conducting the clection In the manner provided by these rules or orders made there under, 14. provision of polling stations for ward or constituency—The district election officer shall, with the previous approval of the Commission, provide a sufficient number of polling stations for every ward/constituency the whole or greater part of which lies within his or her jurisdiction, and shall publish, in such manner as the Commission may direct, a list showing the polling stations so provided and the polling areas or groups of voters for which they have respectively been provided

15. Appointment of presiding officers for polling stations—(1) The district election officer shall appoint a presiding officer for each polling station and such polling officer or officers as he or she thinks necessary, but he or she shall not appoint any person who has been employed by or on behalf of, or has been otherwise working for a candidate in or about the election. Provided that if a polling officer is absent frOm the polling station, the presiding officer may appoint any person who is present at the polling station other than a person who has been employed by or on behalf of. or has been otherwise working for, a candidate in or about the election, to be the polling officer during the absence of the former officer, and inform the district election officer accordingly Provided further that nothing in this sub-rule shall prevent the district election officer from appointing the same person to be the presiding officer for more than one polling station in the same premises. (2) A polling officer shall, if so directed by the presiding officer, perform all or any of the functions of a presiding officer under these rules or orders made there under. (3) Ifthe presiding officer, owing to illness or other unavoidable cause is compelled to absent himself from the polling station, his or her functions shall be performed by such polling officer as has been previously authorised by the District Election officer to perform such functions during any such absence. (4) References in these rules to the presiding officer shall, unless the COntext otherwise requires, be deemed to include any person performing any function which he or she is authorized to perform under sub-rule (2) or sub-rule (3), as the case may be

16. General duty of the presiding officer—It shall be the general duty Of the presiding officer at a polling station to keep order thereat and to see that the poll is fairly taken. u.p. MUNICIPALITIES ACT, 1916 446 17. Duties of a polling officer—it shall be the duty of the polling officer at a polling Station to assist the presiding officer for such station in the performance of his or her functions

18. Returning officer, presiding officer, etc., deemed to be on deputation to the Commission—The returning officer assistant returning officer, presiding officer, polling officer, and any other officer appointed under these rules, and any police officer designated for the time being by the State Government for the conduct of any election shall be deemed to be 'on deputation to the Commission for the period commencing on and from the date of the notification calling for such election and ending with the date of declaration of the results of such election and accordingly, such officers shall during that period, be subject to the control, superintendence and discipline of the Commission

19. Appointing of dates for nominations, etc., for election of members, corporators, Chairmen and Mayors of Municipalities—(1) In accordance with the time schedule determined by the Commission under Rule 7 the District Election Officer shall by public notice, call upon the constituencies of the Municipalities in the district to elect the Chairman or the Mayor as the case may be and one member or one Corporator as the case may be from each ward in Municipality (b) (d) (f) the last date for filing of nomination which shall be the seventh day after the date of publicatiÖn of the notification under this sub-rule, or if that date is a public holiday, the next succeeding day which is not a public holiday. the date for scrutiny of nominations, which shall be the day next to the last date for filing of nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday, the last date for withdrawal of

candidature, which shall be the second day after the date for scrutiny of nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday; the day which shall not be earlier than seven days after the date fixed for withdrawal of nomination, on which a poll shall, if necessary, be taken. the hours within which such poll be taken: the place, date and time at which counting of votes shall commence. (2) The District Election Officer shall appoint a returning officer for each Municipality for election of its members or Corporators or the Chairman Of the Mayor as the case may be and may also appoint assistant returning officers to assist him

20. Presentation of nomination papers for elections to the Municipalities—(1) On the day appointed under Rule 19 for nomination U. p. MUNI. (ELEC. OF MEM., COR., CHAIRMAIN & MAYORS) RULES, 2010 447 and for the presentation Of nomination papers, any person qualified under the Act for election as a member or Corporator or Chairman or Mayor of a Municipality and desiring to seek such election, hereafter in referred to as the candidate, shall deliver in person or through proposer to the returning officer his or her nomination paper in prescribed Form duly filled in and signed by him or her or bearing his or her thumb impression: provided that if a candidate belonging to the Scheduled Castes. scheduled Tribes or Backward Classes submits his or her nomination paper for a reserved ward, he or she shall attach a copy of the certificate to that effect issued by an officer authorized by the State Government: provided further that a candidate belonging to the Scheduled Castes or scheduled Tribes or Backward Classes or a woman of any category shall not be debarred to contest election from a general ward: (2) Any nomination paper not delivered as provided in sub-rule (1) shall be liable to be rejected. (3) More than one nomination paper may be filed on behalf of a candidate by different voters from the same constituency ward, but the total nomination papers filed on behalf of candidate shall not exceed four per ward or constituency. In case more than four nominations are presented, only the first four presented shall be considered and the rest shall be summarily rejected. (4) A voter cannot nominate, as a proposer, more than one candidate Where a voter has signed on nominations for more than one candidate all such nominations other than the first one received by the returning officer shall stand invalid. (5) Every nomination paper subscribed and signed as aforesaid must be delivered to the returning officer in person by the candidate or any of the proposers on the days and between the hours fixed for the nomination of candidates at the place specified in this behalf in the public notice issued by the district election officer under Rule 19

21. Procedure upon delivery of nomination papers—Upon delivery Of a nomination paper under Rule 20 the returning officer shall inform the person so delivering the same of the day, hour and place appointed for the scrutiny thereof and shall endorse thereon in his or her handwriting. (iii) (iv) the serial number of the ward or constituency from which the candidate proposes to seek election. the serial number of the nomination paper for such ward or constituency. the name of the person, delivering the nomination paper together with the name of the person, if any, identifying such person, and the date on which and the hour at which. the nomination paper was delivered to him. 448 U.P. MUNICIPALITIES ACT, 1916 22. Right to information—(1) A candidate shall, apart from any information which he or she is required to furnish under the Act in his or her nomination paper delivered under Rule 19 and Rule 20 also furnish the information as to whether (i) he or she is accused of any offence punishable with imprisonment for two years or more in a pending case in which a charge has been framed by the court of competent jurisdiction: (ii) he or she has been convicted of an offence other than any offence referred to in clause (I) for imprisonment for one year or more; (iii) the assets (immovable. movable, bank balance, etc.,) of a candid*e and of his or her spouse and that of his or her dependents; (iv) liabilities, if any, particularly whether they are any other dues of any public financial institutions or of the Central or the State Government dues: (v) the educational qualification of the candidate. (2) The candidate or his or her proposer, as the case may be, shall, at the time of delivering to the returning officer the nomination paper under Rules 19 and 20, also deliver to him other an affidavit or declaration sworn by the candidate in a prescribed Form verifying the information specified in sub- rule (1). (3) The returning officer shall, as soon as may be after the furnishing of information• to him or her under sub-rule (1), display the aforesaid information by affixing a copy of the affidavit, delivered under sub-rule (2), at a conspicuous place at his or her office for the information of the electors relating to a ward of constituency for which the nomination paper is delivered

23. Deposits—A candidate shall not be deemed to be duly nominated for an election for Municipalities unless he or she deposits or causes to be deposited a sum as fixed by the State Election Commission in consultation with the State Government: Provided that whether a candidate has nominated by more than

one nomination paper for election in the same ward or constituency, not more than one deposit shall be required of him or her under this rule

24. Scrutiny of nomination papers—(1) On the date and time fixed for scrutiny of nomination papers under Rule 19 the returning officer shall examine the nomination papers and decide all objections which may be made to any nomination and may, either on such objection or on his or her own motion, after such summary inquiry, if any, as he or she thinks necessary, and after giving the candidate a reasonable opportunity of being heard, declare invalid any nomination on any of the following grounds— (a) that the candidate is not qualified or is disqualified for election: U. P. MUNI. (ELEC. OF MEM., COR., CHAIRMAN & MAYORS) RULES, 2010 449 (b) (D) (g) (h) that he or she is not identical with the person whose number or name on the voters' list is stated in the nomination paper to be the number or name of the candidate: that his or her signature or thumb impression is not genuine or has been obtained by fraud, coercion or undue influence; that there has been a failure in complying with the provisions of Rules 20 and 21. that the candidate has not made or caused to be made the deposit referred to in Rule 23. that the candidate has not attained the minimum age required for being elected as a member or Corporator or Chairman or Mayor as the case may be. that the proposer has not been enrolled as a voter of the ward or constituency for which the nomination has been filed. that the proposer has subscribed nomination for more than one candidate in the same ward subject to the provisions as contained in sub-rule (4) of Rule 20. (2) On the date fixed for the scrutiny of nomination under Rule 23 the candidates, and their election agents, or one proposer of each candidate or one other person duly authorized in writing by each candidate, but no other person may attend at such time and place as the returning officer may appoint. (3) The returning officer shall not reject any nomination paper on the ground of any defect which is not of a substantial character. (4) A failure to complete or a defect in completing the declaration as to symbols in a nomination paper in prescribed form shall not be deemed to be defect of a substantial character within the meaning of sub-rule (3). (5) For the purposes of this rule an entry in the electoral roll for the time being in force of a ward or constituency shall be conclusive evidence of the fact that the person referred to in that entry is an electoral for that ward unless it is proved that he or she is subject to a disqualification mentioned in the Act. (6) The returning officer shall endorse on each nomination paper his or her decision accepting or rejecting the same and, in case of rejection, a brief statement of his or her reason for such rejection. (7) The scrutiny shall be completed on the same day and no adjournment or the proceeding shall be allowed. (8) In case any dispute regarding the status of candidate being considered eligible to be elected against a reserved seat arises at the time of scrutiny of nomination the returning officer may ask the candidate to produce the original of the certificate referred to above or any other documents in support of the claim of the candidate. After scrutiny of such evidence, the returning officer shall declare whether the candidate's claim u.p. MUNICIPALITIES ACT, 1916 450 for being eligible to be elected from a reserved seat of a Municipality is acceptable or not

25. Withdrawal of candidature—(1) Any candidate may withdraw his or her candidature by a notice in writing which shall contain such particulars as may be prescribed and shall be subscribed by him or her and delivered before the time prescribed on the day fixed under Rule 19 to the returning officer either by such candidate in person or by his or her proposer or election agent who has been authorized in this behalf in writing by such candidate. (2) No person who has given a notice of withdrawal of his or her candidature under sub-rule (1) shall be allowed to cancel the notice: (3) The returning officer shall, on being satisfied as to the genuineness of a notice of withdrawal and the identity of the person delivering it under sub-rule (1). cause the notice to be affixed in some conspicuous place in his or her office

26. Publication of list of contesting candidates—(1) immediately after the expiry of the period within which candidatures may be withdrawn under sub-rule (1) Rule 25 the returning officer shall prepare and publish in such Form and manner as may be determined by the commission a list of contesting candidates, that is to say, candidates who were included in the list of validity nominated candidates and who have not withdrawn their candidature within the said period. (2) The names of candidates shall be arranged in alphabetical order and the addresses of the contesting candidates as given in the nomination papers together with such other particulars as may be determined by the commission

27. Allotment of symbols to contesting candidates—(1) The State Election Commission shall, by notification in the Gazette, specify the symbols that may be allowed to candidates at elections to the

Municipalities. (2) The day immediately following the last date for withdrawal of the candidatures, the returning officer shall proceed to allot symbols to the contesting candidates (3) The allotment by the returning officer of any symbol to a candidate shall be final except where it is inconsistent with any directions issued by the Commission in this behalf in which case the Commission may revise the allotment in such manner as it thinks fit

28. Election agent—A candidate, at an election may appoint in the prescribed manner any person other than himself to be his or her election agent, who shall be an elector of the constituency concerned for which the candidate is contesting and against whom no criminal charge has been framed by court of law, and when any such appointment is made, notice of the appointment shall be given in the prescribed manner to the returning officer. U. P. MUNI. (ELEC. OF MEM., COR., CHAIRMAN & MAYORS) RULES, 2010 451 29.

Disqualification for being an election agent—Any person who is for the time being disqualified under these rules for being a member or corporator or Chairman or Mayor as the case may be of the Municipalities in the State or for voting at election shall so long as the disqualifications subsist, also be disqualified for being an election agent at any election

30. Revocation of the appointment of an election agent—(1) Any revocation of the appointment of an election agent shall be signed by the candidate and shall operate from the date on which it is lodged with the returning officer (2) In the event of such a revocation or of the death of an election agent whether that event occurs before or during the election, or after the election but before the account of the candidate's election expenses has been lodged in accordance with the provisions, the candidate may appoint in the prescribed manner another person to be his or her election agent and when such appointment is made, notice of the appointment shall be given in the prescribed manner to the returning officer

31. Functions of election agents—An election agent may perform such functions in connection with the election as are authorized by or under these rules to be performed by an election agent. **32. Appointment of polling agents**—A contesting candidate or his or her election agent, may appoint such number of agents and relief agents as may be determined by the commission to act as polling agents of such candidate at each polling station or at the place fixed for the poll

33. Appointment of counting agents—2A contesting candidate or his or her election agent, may appoint one or more persons, but not exceeding such number as may be determined by the commission, to be present as his or her counting agent or agents at the counting of votes and when any such appointment is made notice of the appointment shall be given to the returning officer within the stipulated time

34. Revocation of appointment on death of a polling agent or Counting agent—(1) Any revocation of the appointment of a polling agent shall be signed by the candidate or his or her election agent and shall operate from the date on which it is lodged with such officer as may be determined by the returning officer, and in the event of such a revocation or of the death of a polling agent before the close of the poll, the candidate or his or her election agent may appoint another polling agent at any time before the poll is closed and shall forthwith give notice of such appointment to such officer as may be determined by the returning officer (2) Any revocation of the appointment of a counting agent shall be signed by the candidate or his or her election agent and shall operate from the date on which it is lodged with the returning officer, and in the event of such a revocation or of the death of a counting agent before the commencement of the counting of votes, the candidate or his or her election U. P. MUNI. (ELEC. OF MEM., COR., CHAIRMAN & MAYORS) RULES, 2010 451 29. **Disqualification for being an election agent**—Any person who is for the time being disqualified under these rules for being a member or corporator or Chairman or Mayor as the case may be of the Municipalities in the State or for voting at election shall so long as the disqualifications subsist, also be disqualified for being an election agent at any election

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prescribed manner another person to be his or her election agent and when such appointment is made, notice of the appointment shall be given in the prescribed manner to the returning officer

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34. Revocation of appointment on death of a polling agent or counting agent—(1) Any revocation of the appointment of a polling agent shall be signed by the candidate or his or her election agent and shall operate from the date on which it is lodged with such officer as may be determined by the returning officer, and in the event of such a revocation or of the death Of a polling agent before the close of the poll, the candidate or his or her election agent may appoint another polling agent at any time before the poll is closed and shall forthwith give notice of such appointment to such officer as may be determined by the returning officer (2) Any revocation of the appointment of a counting agent shall be signed by the candidate or his or her election agent and shall operate from the date on which it is lodged with the returning officer, and in the event of such a revocation or of the death of a counting agent before the C0mmencement of the counting of votes, the candidate or his or her election U.P. MUNICIPALITIES ACT, 1916 452 agent may appoint another counting agent at any time before the counting Of votes is commenced and shall forthwith give notice of such appointment to the returning officer 35. Function of polling agents and counting agents—(1) A polling agent may perform such function in connection with the poll as are authorised by on under this rule to be performed by a polling agent. (2) A counting agent my perform such functions in connection with the counting of votes as are authorised by or under this rule to be performed by a counting agent

36. Attendance of contesting candidate or his or her election agent at polling stations, and performance by him or her of functions of a polling agent or counting agent—(1) At every election where a poil is taken, each contesting candidate at such election and his or her election agent shall have a right to be present at any polling station for taking of the poll or at place fixed for the poll. (2) A contesting candidate or his or her election agent may himself do any act or thing which any polling agent or the counting agent of such contesting Candidate appointed would have been authorised by or under these rules to do, or Inay assist any polling agent or the counting agent such contesting candidate in doing any such act or thing

37. Non-attendance of polling or counting agents—Where any act or thing is required or authorised by or under these rules to be done in the presence of the polling or counting agents, the non-attendance of any such agent or agents at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done. invalidate the act or thing done

38. Procedure for contested and uncontested elections—(1) In case of a contested election, poll shall be taken on the date mentioned under Rule 19. (2) For any seat if the number of valid nominations, lier withdrawal, if ally, is only one, the person so nominated shall be declared to be elected (3) If there is no contesting candidate in an election then the vacancy so caused shall be filled by the Commission as per Rule 60

39. Eligibility of members belonging to Scheduled Castes or Scheduled Tribes, etc., to hold seats not reserved for those castes or tribes, etc.—(1) For The avoidance of doubt it is hereby declared that a woman or a member belonging to the Scheduled Castes or the Scheduled Tribes or the Backward Classes sháll not be disqualified to hold it seat not reserved for woman or the persons belonging to such castes or classes if otherwise qualified to hold such Seat under the Act

40. Fixation of polling hours—The Commission shall fix the hours during which the poll will be taken and the hours so fixed shall be published: Provided that the total period allotted on anyone day for polling

at an election for Municipalities shall not be less than eight hours. U. p. MUNI. (ELEC. OF MEM., COR., CHAIRMAN & MAYORS) RULES, 2010 453 41. Adjournment of poll in emergencies—(1) If at an election the proceedings at any polling station at the place fixed for the poll are interrupted or obstructed by any riot or open violence or if at an election it is not possible to take the poll at any polling station or such place on account of any natural calamity or any other sufficient cause the presiding officer for such polling station or the returning officer presiding over such place, as the case may be, shall announce an adjournment of the poll to a date to be notified later, and where the poll is so adjourned by the presiding officer, he or she shall forthwith inform the returning officer concerned. (2) Whenever a poll is adjourned under sub-rule (1) the returning officer shall immediately report the circumstances to the District Election Officer of and the Commission, and shall, as soon as may be with the previous approval of the Commission, appoint the day on which the poll shall take place and fix the polling station or place at which and the hours during which the poll will be taken and shall not count the votes cast at such election until such adjourned poll shall have been completed. (3) In every such case as aforesaid, the returning officer shall notify in such manner as the Commission may direct the date, place and hours of polling fixed under sub-rule (2) 42. Fresh poll in case of destruction of ballot boxes, Electronic Voting Machines etc.—(1) If at any election— (a) any ballot box or electronic voting machine used at a polling station or at a place fixed for the poll is unlawfully taken out of the custody of the presiding officer or the returning officer, or is accidentally or intentionally destroyed or lost, or damaged or tampered with, to such an extent, that the result of the poll at that polling station or place cannot be ascertained; or (b) any voting machine develops a mechanical failure during the course of the recording of votes; or (c) any such error or irregularity in procedure as is likely to vitiate the poll is committed at a polling station or at a place fixed for the poll. The returning officer shall forthwith report the matter to the Commission, (2) Thereupon the Commission shall, after taking all material circumstances into account, either— (a) declare the poll at that polling station or place to be void, and appoint a day, and fix the hours, for taking a fresh poll at that polling station or place and notify the day so appointed and the hours so fixed in such manner as it may deem fit, or (b) if satisfied that the result of a fresh poll at that polling station or place will not in any way, affect the result of the election or that the mechanical failure of the voting machine or the error 454 U.P. MUNICIPALITIES ACT, 1916 irregularity in procedure is not material issue such directions to the returning officer as it may deem proper for the conduct and completion of the election. (3) The provisions of their rule shall apply to every such fresh poll as they apply to the original poll

43. Adjournment of poll or countermanding of election on the ground of booth capturing—(1) at any election— (a) booth capturing has taken place at a polling station or at a place fixed for the poll (hereafter referred to as the place) in such manner that the result of the poll at that polling station or the place cannot be ascertained; or (b) booth capturing takes place in any place for counting of votes in such manner that the result of the counting at that place cannot be ascertained the returning officer shall forthwith report the matter to the Commission. (2) The Commission shall on the receipt of a report from the returning officer under sub-rule (1) and after taking all material circumstances into account either— (a) declare that the poll at that polling station or place be void, and appoint a day, and fix the hours, for taking fresh poll at that polling station or place and notify the date so appointed and hours so fixed in such manner as it may deem fit; or (b) if satisfied that in view of the large number of polling stations or places involved in booth capturing the result of the election is likely to be affected, or that booth capturing had affected counting of votes in such manner as to affect the result of the election, countermand the election in that ward or constituency

44. Voting at elections—At every election where a poll is taken, votes shall be given by ballot or in such a manner as may be determined by the Commission and no vote shall be received by proxy

45. Voting machines at elections—Notwithstanding anything contained in These rules, the giving and recording of votes by voting machines in such manner as may be prescribed, may be adopted in such ward or constituency or wards or constituencies as the Commission may have regard to the circumstances of each case, specify. Explanation—For the purpose of this rule, "voting machine" means any machine or apparatus whether operated electronically or otherwise used for giving or recording of votes and any reference to a ballot box or ballot paper in these rules or order shall, save as otherwise provide, be construed as including a reference to such voting machine wherever such voting machine is used at any election 46. Right to No person who is not, and except as expressly provided in the Act, every

person who is for the time being entered in the U. p. MUNI. (ELEC. OF MEM., COR., CHAIRMAN & MAYORS) RULES, 2010 455 electoral roll of by any ward or constituency shall be entitled to vote in that Ward constituency. (2) No person shall vote at an election in any ward or constituency if he or she is subject to any in the disqualifications referred to in the Act. (3) No person shall vote at a general election in more than one ward or constituency of the same class, and if a person votes in more than one such ward or constituency. his or her votes in all such wards or constituencies shall be void. (4) No person shall at any election vote in the same ward or constituency more than once, notwithstanding that his or her name may have been registered in the electoral roll for that ward or constituency more than once, and if he or she does so vote. all his or her votes in that ward or constituency shall be void. (5) No person shall vote at any election if he or she is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police: Provided that nothing in this sub-rule shall apply to a person subjected to preventive detention under any law for the time being in force

47. Counting of votes—At every election where a poll is taken votes shall be counted by, or under the supervision and direction of the returning officer and each contesting candidate his or her election agent and his or her counting agents, shall have a right to be present at the time of counting 48. Fixation of time, place and date for the counting—(1) The Returning Officer shall appoint the date for the counting of votes as fixed by the Commission after the completion of the poll and shall fix the place and time at which the votes shall be counted. (2) The Returning Officer shall give notice of such dates, time and place to the contesting candidates or their Election Agents, (3) If at the time so appointed for the counting of votes the ballot boxes containing the votes to be counted are not received by the Returning Officer or if due to any other unavoidable cause he is unable to proceed with counting, he may postpone the counting to another date and fix the time and place for it with the prior approval of District Election Officer and give notice thereof to the contesting candidates or their Election Agents 49. Counting Agents—(1) A contesting candidate or his Election Agents may appoint one person to be present as his Counting Agents at the counting of votes. (2) Every such appointment shall be made in writing before the commencement of the counting. (3) No Counting Agents shall be admitted into the place fixed for counting unless he has delivered to the Returning Officer the letter of his appointment under sub-rule (2) U. p. MUNI. (ELEC. OF MEM., COR., CHAIRMAN & MAYORS) RULES, 2010 457 reasonable opportunity to inspect all ballot papers which in the opinion of the Returning officer are liable to be rejected, but shall not allow them to handle these or any other paper. The Returning Officer shall on every ballot paper which is rejected endorse rejection in Hindi in Devnagri script. If any candidate or his Election Agent questions the correctness of the rejection of any ballot paper, the Returning Officer shall also record briefly on such ballot paper, the grounds for his rejection. (g) After the counting of all ballot papers contained in the ballot boxes or votes recorded in electronic voting machine of the polling place has been completed the Returning Officer shall cause all such ballot papers to be kept in separate packet on which there shall be indicated such particulars as may identify the polling place, the name of the Municipality and the constituency to which the ballot papers or votes

52. Grounds for rejection of ballot papers—(1) The Returning Officer shall reject any ballot paper— (a) (b) (f) if it bears any mark or writing by which an elector can be identified. if it is spurious ballot papers: or if it has been so damaged or mutilated that its identity as genuine ballot paper cannot be established: or if it bears a serial number or a design different from the serial number or design, as the case may be of the ballot papers authorized for use at the particular polling place: or if votes are given on it in favour of more candidates than the number of seats required to be filled in a constituency: or if no vote is recorded thereon. (2) A vote recorded on a ballot paper shall be rejected if the mark indicating the vote is placed on the ballot paper in such manner as to make it doubtful which candidate the vote has been given: Provided that a ballot paper shall not be rejected merely on the ground that the mark indicating the vote is indistinct or made more than once against the name of a particular candidate if the intention that the vote shall be for a particular candidate clearly appears from the way the paper is marked (3) The decision of the Returning officer to the validity of a ballot paper or of vote given on any such ballot paper shall be final subject, however, to any decision to the contrary given on the trial of an election petition calling in question of the election 53. Destruction, loss etc., of ballot papers at the time of counting— (1) If at any time before the counting of votes is completed any ballot paper 458 U.P. MUNICIPALITIES ACT, 1916 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, the returning officer shall forthwith report the matter to the District Election Officer and the Commission (2) Thereupon, the Commission shall after taking all material circumstance into account, either— (a) direct that the counting of votes shall be stopped, declare the poll at the polling station or place to be void and appoint a day, and fix the hours, for taking a fresh poll at that polling station or place and notify the date so appointed and hours so fixed in such manner as it may deem fit, or (b) if satisfied that the result of a fresh poll at that polling station or place will not in any way, affect the result of the election issue such directions to the returning officer as it may deem proper for the resumption and completion of the counting and for the further conduct and completion of the election in relation to which the votes have been counted. (3) The provisions of these rules or orders made there under shall apply to every such fresh poll as they apply to the original poll

54. Equality of votes—If after the counting of the votes is completed, an equality of votes is found to exist between any of the candidates and the addition of one vote will entitle any those candidates to be declared elected the returning officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote

55. Declaration of results—When the counting of the votes has been completed, the returning officer shall in the absence of any direction by the Commission to the contrary, forthwith declare the result of the election in the manner provided by the Act or these rules

56. Report of the result—As soon as may be after the result of an election has been declared the returning officer shall report the result to District Election Officer and the Commission

57. Publication of results of general elections to the Municipalities—The name of every person elected as member Corporate Chairman or Mayor of a Municipality as the case may be shall be published in the Gazette in the manner prescribed by the Commission

58. Custody of the return and of the ballot papers and other papers relating to The Returning Officer shall, after reporting the result of the election under Rule 57 forward the return to the District Election Officer for safe custody. U. p. MUNI. (ELEC. OF MEM., COR., CHAIRMAN & MAYORS) RULES, 2010 459 (2) The Returning Officer shall also forward to the District Election Officer for safe custody by the packets of ballot papers and all other papers relating to the election

59. Inspection of ballot papers and contents thereof—(1) While in the custody of the District Election Officer the packets of ballot papers, whether valid, rejected or tendered and of the marked copy of the electoral roll shall not be opened and their contents shall not be inspected by or produced before any person or authority except under the order of a competent court or of a District Judge hearing an election petition. The inspection when ordered shall be subject to the payment of a fee at the rate of Rupee Twenty per day on which the inspection is done. (2) All other papers relating to the election shall be opened to public inspection subject to such condition, if any, as the State Government may specify and subject to the payment of a fee at the rate of Rupee One hundred per day on which inspection is done, (3) Copies of the return forwarded by the Returning Officer under sub- rule (1) of Rule 39 shall be furnished by the District Election Officer on payment of a fee of Rupees One hundred for each copy (4) Copies of such papers are allowed to be inspected under sub-rule (2) and shall be given to any person applying for the same on payment of a fee at the same rate as is charged in the State for a copy of any order by a Revenue Officer Any application for copies of papers may be made on plain paper and no judicial stamp need be affixed. (5) Certified copies of any paper referred to in sub-rule (6) shall be issued from the officer District Election Officer or the District Magistrate concerned 60. Election to unfilled seats—(1) On receipt of report of any seats remaining unfilled the District Election Officer shall, as soon as may be, in accordance with the instruction of the State Election Commission, call upon the constituency concerned to elect the member or Corporator or Chairman or Mayor as the case may be for the Municipality before such date as may be fixed by the Commission and shall also appoint a fresh date, time and place for each item mentioned in Rule 19 and the provision of these rules shall, as far as may be, apply in relation to a member to fill such vacancy. (2) If again the constituency fails to elect member or Corporator or Chairman or mayor as the case may be of the election held under sub-rule (1), the District Election Officer shall report the fact to the State Election Commission

61. Penalties—Any person who— (a) matters or tampers with the electoral roll or this copy or other documents in contravention of the Rule; or (b) obstructs or in any way interferes with any officer and servant appointed or employed for the purpose of these rules in performance of his duties or 460 U.P. MUNICIPALITIES ACT, 1916 (c) defaces, injures, disturbs or removes any copy, notice or other documents affixed or otherwise published Under these Tules in any public office or elsewhere; Shall be punishable with fine which may extend to ten thousand rupees

62. Bye-election—If a vacancy occurs by reason of death or otherwise in the office of an elected member or Corporator or Chairman or Mayor as the case may be of a Municipality the District Election Officer shall, in accordance with the instructions Of the State Election Commission, call upon the territorial constituency concerned to elected member or Corporator or Chairman or Mayor as the case may be for the Municipality before such date as may be fixed by the Commission and shall also appoint the date, time and place of various stages of bye-election in accordance with the provision of Rule 19 and the provisions of these rules shall, as far as may be, apply in relation to the election of a member or Corporator or Chairman or Mayor as the case may be, to fill such vacancy 1163. (1) All papers relating to the election of Municipalities shall be destroyed after period of one year from the date of declaration of the result of election, subject to any directions to the contrary given by •the State Election Commission or a competent court or a Tribunal. The election returns shall be retained till the completion of the next general election and shall thereafter be destroyed subject to any directions to the contrary given by a competent authority or the Commission (2) The electronic voting machines kept in the custody, shall be retained intact for such period as the State Election Commission may direct and shall not be used at any subsequent election without the previous approval of the State Erection Commission.] 1. Rules 63 subs. by Noti. No. 136/X-1-13-615A-10, dated 30 January, 2013 published in Gazette. Extra. Part 4 Section (kha), dated 30th January 2013 (w.e.f. 30-1-2013). U.P. MUNICIPALITIES ACT, 1916 (c) defaces, injures, disturbs or removes any copy, notice or other documents affixed or otherwise published under these rules in any public office or elsewhere; Shall be punishable with fine which may extend to ten thousand rupees

62. Bye-election—If a vacancy occurs by reason of death or otherwise . in the office of an elected member or Corporator or Chairman or Mayor as the case may be of a Municipality the District Election Officer shall, in accordance with the instructions Of the State Election Commission, call upon the territorial constituency concerned to elected member or Corporator or Chairman or Mayor as the case may be for the Municipality before such date as may be fixed by the Commission and shall also appoint the date, time and place of various stages of bye-election in accordance with the provision of Rule 19 and the provisions of these rules shall, as far as may be, apply in relation to the election of a member or Corporator or Chairman or Mayor as the case may be, to fill such vacancy 1163. (1) All papers relating to the election of Municipalities shall be destroyed after period of one year from the date of declaration of the result of election, subject to any directions to the contrary given by the State Election Commission or a competent court or a Tribunal. The election returns shall be retained till the completion of the next general election and shall thereafter be destroyed subject to any directions to the contrary given by a competent authority or the Commission (2) The electronic voting machines kept in the custody, shall be retained intact for such period as the State Election Commission may direct and shall not be used at any subsequent election without the previous approval of the State Erection Commission.] 1. Rules 63 subs. by Noti. No. 136/X-1-13-615A-10, dated 30 Jan