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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**DRAFT AMENDMENTS**

**TO THE LAW ON STATUS OF MUNICIPALITIES**

**and**

**LAW ON THE STATUS OF MUNICIPALITIES**

**OF THE REPUBLIC OF AZERBAIJAN**

*Draft***LAW OF THE REPUBLIC OF AZERBAIJAN****“On amendments to the Law of the Republic of Azerbaijan  
“On Status of Municipalities”**

Milli Majlis of the Republic of Azerbaijan, pursuant to paragraph 7 of part I of Article 94 of the Constitution of the Republic of Azerbaijan hereby enacts:

The following amendments shall be made to the Law of the Republic of Azerbaijan “On status of municipalities” (Collection of Legislation of the Republic of Azerbaijan, 1999, № 7, section 405; 2001, № 11, sections 689, 690, № 12, section 736; 2002, № 5, section 242; 2003, № 1, sections 11, 16, № 6, section 256; 2004, № 1, section 10, № 4, section 202, №5, section 314, № 6, section 397; 2005, № 2, section 62; 2006, № 2, section 67, № 11, section 923, № 12, section 1005; 2007, № 11, sections 1053, 1082; 2008, № 5, section 354; 2009, № 6, section 410; 2010, № 3, section 173, № 4, sections 275, 276; 2011, № 2, section 71, № 12, section 1074, 2012, № 6, section 523):

1. Articles 22-1 and 22-2 shall be included in the following wording:

**“Article 22-1. Suspension of powers of members of the municipality**

Powers of member of the municipality shall be temporarily suspended until the verification of reasons of cases referred to in paragraph 6 of Article 22 of the present Law.

**Article 22-2. Pre-term dismissal of the municipality**

If there is an address to the Milli Majlis of the Republic of Azerbaijan in accordance with part 3 of Article 52-2 of the present Law and if Milli Majlis considers the activity of the municipality as inadequate as a result of hearing of the report of the municipality, Central Election Commission of the Republic of Azerbaijan shall pass a decision on pre-term dismissal of the municipality.

2. In respect of Article 52-2:

2.1. the word “Municipalities” in the first and second parts shall be replaced with words “1. Municipalities” and “2. Municipalities” respectively.

2.2. Part 3 shall be included into the Article in the following wording:

“3. Apart from the report referred to in part 1 of the present Article, municipality shall report to its voters on work done, including information on the use of financial resources and municipal property, on Monday of the third week of January each year. The report shall be drawn up in writing and approved at the sessions of the municipality. In order to acquaint the local population with the report, it shall be posted on special billboards located in front of administrative building of the municipality as well as it shall be delivered to population through the announcements, bulletins, papers, local mass media, websites and other means.

The report submitted to voters shall be forwarded to the authority implementing administrative supervision over activity of municipalities within the period of 10 days following to its approval. If more than half of those present in the meeting/meetings, which convenes/convene at least 25 per cent of citizens residing in the territory of respective municipality and having voting rights and results of which are formalized with

protocol/protocols, votes "for" consideration of the report of the municipality as inadequate, the decision thereof shall be passed and protocol/protocols of the meeting/meetings shall be submitted to the authority implementing administrative supervision over activity of municipalities. Form and drafting requirements of protocol shall be defined by the relevant body of executive power.

Authority implementing administrative supervision over activity of municipalities shall examine the compliance of protocol/protocols with the form and drafting requirements. If incompliance is revealed, protocol/protocols shall be returned and if incompliance is not revealed, protocol/protocols shall be submitted to the relevant body of executive power together with the report of the municipality.

In case the relevant body of executive power considers the report of the municipality as inadequate, it shall address to the Milli Majlis of the Republic of Azerbaijan with regard to pre-term dismissal of the municipality."

*Ilham Aliyev*  
*President of the Republic of Azerbaijan*

*Baku city, " \_\_\_\_\_ " \_\_\_\_\_ 2013*

**Unofficial translation****LAW OF THE REPUBLIC OF AZERBAIJAN  
ON STATUS OF MUNICIPALITIES**

In accordance with the Constitution of the Republic of Azerbaijan, this Law determines: the principles of establishment of municipalities, which implement self-government; their role; the legal, economic and financial basis of local self-government, and state guarantees for its implementation.

**I CHAPTER  
GENERAL PROVISIONS****Article 1. Notion of self-government**

Local self-government in the Republic of Azerbaijan is a system of organizing citizens' activity that grants to its citizens the ability to resolve important local issues independently and freely and to implement a part of state issues in accordance with part II of Article 11 of the Constitution of the Republic of Azerbaijan for the sake of interests of local population. These rights are performed by meetings of citizens or collegial bodies (municipalities) consisting of municipal members, who are elected on the basis of general, equal, and direct rights to vote, by independent, in-person and secret ballot. In implementing their functions, municipalities may establish permanent executive structures, which will report to them.

**Article 2. Terminology**

1. Municipality – a form of local self-government within a territory defined by the Law. A municipality has its own property and local budget and it resolves important local issues independently within its powers defined by the Constitution of the Republic of Azerbaijan and this law. Municipalities are established and function on an equal basis.

2. Municipal bodies – bodies created by the municipality and not included in the system of state bodies in order to organize municipal service and with a view to resolve issues of local importance.

3. Important local issues – issues related to providing the living conditions of the population and defined by the Constitution and laws of the Republic of Azerbaijan.

4. Local public opinion survey – survey of citizens' opinions on issues of local importance

5. *Excluded*

6. Official of the municipal body – a person working on the basis of a contract (labor agreement), and performing organizational and decision-making functions in local self-government bodies. He/she is not included in the category of government employees.

7. Municipal property – all kinds of movable and immovable property which belong to municipalities.

8. Local taxes (municipal taxes) – taxes determined by the Tax Code of the Republic of Azerbaijan and the Law of the Republic of Azerbaijan on Local (Municipal) Taxes and Payments and paid to municipalities.

8-1. Local payments – voluntary payments determined by the Law of the Republic of Azerbaijan on Local (Municipal) Taxes and Payments as well as singly paid by natural and legal persons for financing target projects carried out on the basis of results of local public opinion survey.

9. Municipal service – permanent professional activity in local self-government bodies for implementation of their powers.

10. The terms “municipality” and “local self-government” and other word combinations formed with these terms shall be used in cases on municipalities, their bodies, institutions, bodies and organizations related to local self-government, property establishments and other establishments as well as in other cases with regard to implementation of local self-government by the population.

### **Article 3. The right of citizens of the Republic of Azerbaijan to implement local self-overnment**

1. Citizens of the Republic of Azerbaijan shall implement their right to self-government in the municipal areas of their residence through municipal elections, direct expression of their will, public opinion survey, expression of independent views, proposing of motions and in other forms.

2. Citizens may implement local self-government directly or via their representatives, regardless of their race, nationality, gender, language, origin, wealth or position, their attitude to religion, views, profession, attitude to political parties, trade unions and other public associations.

3. Citizens of the Republic of Azerbaijan shall have the right to elect and be elected to local self-government bodies.

4. All citizens of the Republic of Azerbaijan shall have an equal access to municipal service.

5. Each citizen shall be entitled to address to municipalities, municipal bodies and municipal officials.

6. Municipalities, municipal bodies or their officials shall be obliged to provide each citizen with possibility to get acquainted with the documents and materials directly related to human and citizen rights and freedoms and, unless otherwise specified in the law, with full information on municipal activities as well as to fulfill the mandate given them by voters.

### **Article 4. Local social protection and social development programmes**

1. Local social protection programmes, in addition to state social safeguards, shall determine a social allowance for categories of citizens determined by the municipal body. Those allowances may be paid on permanent or single basis.

2. Local social protection and social development programmes shall be aimed at resolving important local social development issues which are not mentioned in the state's social development programmes or, in addition to them, social development issues of local importance. These programs may cover pre-school upbringing, education, healthcare, culture, maintenance and use of inhabited an uninhabited buildings, organization, maintenance and development of sanitary institutions, apartments construction, use of water resources of locally importance, organization, maintenance and development of local water supply and sewage, organization of fuel supplies and sales, construction and maintenance of roads of local importance, organization of local transport and communication services, creating the environment for organization of trade, public catering and welfare services, assisting the development of cultural facilities, maintaining historical and cultural monuments, organization of information services, creating conditions for mass media activity, providing additional assistance to people without families, sick, old, poor people, children without parents or guardians as well as talented children, assisting the development of physical education and sport, assisting people to find work relevant to their professions,

assisting in socio-legal protection of youth, development of family settlement farm and other fields of local infrastructure.

Protection, improvement and restoration of the existing cemeteries, the allocation of new plots for cemeteries, renovation and construction of new facilities for funeral ceremonies, assistance for organizing ritual ceremonies, including burying and providing the ritual ceremonies for disadvantaged population residing in the territory of the municipality shall be regularly included into local programs of social protection and social development.

The competence of municipalities in the field of physical education and sports shall be regulated by the relevant legislation of the Republic of Azerbaijan.

3. In implementing local social protection and social development programs, municipalities cannot interfere with the state's implementation of programs relating to the activities described in Article 4.2 above.

### **Article 5. Local economic development programmes**

1. Local economic development programmes shall be intended to resolve important local economic development issues, which are not mentioned in the economic development programmes implemented by the state or issues in addition to the state's programme. These programmes may cover fields such as agriculture, industry, communication, transport and others.

Methods of efficiently using the property given by the state are described in the local development programs.

2. In implementing local economic development programmes, municipalities may not interfere with the state's implementation of its functions.

### **Article 6 Local ecological programmes**

1. Local ecological programmes shall be aimed at focusing the local population on the solution of locally significant clean environment issues, which are not mentioned in the ecological programmes implemented by the state or in additions to these programs. These programs may include

- maintaining the ecological balance existing in the local area
- cleaning and improvement of the municipal area
- collection, transportation and recycling of waste products and other measures necessary for tackling other issues in this field
- protecting water, air and land from all types of pollution
- implementing ecological measures in conjunction with neighboring municipalities
- other locally significant measures

6.1 Municipalities shall assist the co-ordination of the state's ecological programs with local ecological programs, and may implement joint measures with the state in specific cases.

### **Article 7. Legislation on local self-government**

7.1 Legislation on local self-government shall consist of the Constitution of the Republic of Azerbaijan, its laws, statutes of relevant executive authorities of the Republic of Azerbaijan (in Nakhchivan Autonomous Republic – the Constitution of Nakhchivan Autonomous Republic and its laws, and also statutes of the relevant executive authorities of Nakhchivan Autonomous Republic).

## **Article 8. Charter of municipality**

1. A municipality's charter shall be adopted by a municipal meeting or by a citizens' meeting.
2. The following matters shall be stated in the charter:
  - 1) The composition and borders of the municipality, as determined by law;
  - 2) The names, structure, powers and regulations for formation of local municipal bodies;
  - 3) The terms of office;
  - 4) The regulations for adoption and date of effect of municipal statutes;
  - 5) Types and basis of the responsibilities of municipal bodies and their officials;
  - 6) Regulations and basis for: the status of and allowances paid to municipal members; termination of their term of office;
  - 7) Guarantee of rights of municipal officials;
  - 8) The terms and regulations for organization of municipal services;
  - 9) The economic and financial basis of the implementation of local self-government, general rules for ownership, usage and giving directions in relation to municipal property;
  - 10) Other provisions, in accordance with the law of the Republic of Azerbaijan, in relation to regulations for organization of local government, and the powers and functions of municipalities and their officials.
3. A municipal body's charter must be registered in accordance with the regulation specified by the law of the Republic of Azerbaijan. Registration of municipalities shall be undertaken by the relevant executive authority.
4. A municipal body's charter may only be refused registration in cases where it contradicts the Constitution of the Republic of Azerbaijan and its laws, statutes of the relevant executive authorities of the Republic of Azerbaijan, (in Nakhchivan Autonomous Republic – the Constitution of Nakhchivan Autonomous Republic and its laws, statutes of the relevant executive authorities of Nakhchivan Autonomous Republic). Citizens and municipal bodies may appeal in administrative order or to a court against refusal of registration.
5. The charter of a municipality shall come into force from the date of its registration.

## **Article 9. State assistance to municipalities**

State bodies of the Republic of Azerbaijan shall create necessary legal, organizational, financial conditions for establishment and development, and provide assistance to the population to implement, local self-government rights.

## **Article 10. Municipal associations**

1. Municipalities may create associations with the purpose to co-ordinate their activity, and to implement their rights and interests effectively. These associations must be registered according to the law.
2. Municipal associations may not be given the powers of municipalities.

## **Article 10-1. International cooperation of municipalities**

Municipalities and associations of municipalities may, through the agreement with the relevant body of executive power, conclude cooperation agreements with the local self-government bodies of foreign countries and become members of the specialized organizations of local self-government bodies.

## **Article 11. Stamp and bank account of the municipality**

A municipality shall be a legal entity and shall have its own stamp and bank account.

## **II CHAPTER TERRITORIAL BASIS OF MUNICIPALITY**

### **Article 12. Territories of Municipality**

1. Local self-government shall be implemented by municipalities within territories approved by the legislature of the Republic of Azerbaijan.
2. Citizens in specific areas may not be deprived, on the basis of a population number, of the right to implement local self-government.

### **Article 13. Determination, changes of municipalities' territories**

Determinations or changes of borders of municipalities as well as determinations and changes of borders of municipalities after municipalities have been established, consolidated, separated, re-established or cancelled, shall be defined taking into consideration their socio-economic situation, historical and other local conditions, opinions of the relevant territory's population, in accordance with the law of the Republic of Azerbaijan.

### **Article 13-1. State register of municipalities**

All municipalities in the Republic of Azerbaijan shall be included into the State register of municipalities guided by the Milli Majlis of the Republic of Azerbaijan and shall be entitled to get relevant certificates.

The conduct of the State Registry of municipalities shall be determined by the relevant law of the Republic of Azerbaijan.

## **III CHAPTER MUNICIPALITIES, MUNICIPAL BODIES AND THEIR OFFICIALS**

### **Article 14. Municipalities and municipal bodies**

1. Municipalities shall be elective local self-government bodies organized on the basis of the Constitution of the Republic of Azerbaijan, Election Code of the Republic of Azerbaijan, this law and municipal charters, and shall consist of municipal members.
2. The number of municipalities shall be determined in accordance with the law of the Election Code of the Republic of Azerbaijan.
3. Deriving from the municipal charter, municipal bodies shall be created and given powers to resolve local self-government issues.
4. Municipalities and their bodies shall not be included into the system of state bodies. State bodies and state officials shall not be permitted to implement local self-government.
5. The structure of municipalities and municipal bodies shall be determined according to the municipal charter and this law.

### **Article 15. Municipal member**

1. A municipal member shall be a person who is elected at the municipal elections and whose mandate is approved by the Territorial Election Commission.

A municipal member shall have the rights to deliver speeches regarding issues under discussion, propose motions and make corrections, make notes, question participants who make speeches, or candidates who have been appointed to municipal positions, provide information, take part in voting during meetings of the municipality.



2. A municipal member permanently exercising his/her competences shall be a municipal member who receives a monthly salary from the municipal budget and whose major place of work is deemed to be a municipality. Municipal member permanently exercising his/her competences shall not be entitled to work in place other than main job, except for scientific, creative and pedagogical activities.

A municipal member whose salary is not paid by the municipality shall not cease his/her normal work while carrying out his/her municipal duties. A municipal member shall be released from his/her normal work duties while participating in the meetings of the municipality and permanent commission to which he/she has been elected, providing that his/her average monthly salary will be preserved.

A municipal member may not operate as a municipal employee. In case if the municipal employee is elected as a municipal member, he/she shall be released from his/her municipal service within 3 days based on his/her own application.

2-1. A municipal member who has another main job (including the chairman and his/her deputies), shall make a written application to the municipality for exercising his/her competences on permanent basis and receive salary from the municipality.

2-2. If the municipality needs the municipal member, who made an application according to paragraph 2-1 of the present Article, to perform his/her functions on permanent basis, the chairman of the municipality shall send a written notification thereof within 5 days to the employer of the main job of a municipal member.

2-3. The employer of a municipal member on his/her main job shall terminate the employment contract with the relevant municipal member, as provided by labor legislation, within 5 days of the receipt of the notification provided for in paragraph 2-2 of the present Article and shall inform the municipality thereof in writing.

2-4. The number limit of municipal members (including the chairman and his/her deputies), exercising competences on a permanent basis, shall be set as follows depending on the number of members of each municipality provided by the legislation:

2-4.1. 2 members - in the municipalities with 5 or 7 members;

2-4.2. 3 members - in the municipalities with 9 or 11 members;

2-4.3. 4 members - in the municipalities with 13 or 15 members;

2-4.4. 5 members - in the municipalities with 17 or 19 members.

3. A municipal member may not be dismissed (where he/she works on a contract basis), or transferred to another position with a lower salary as an administrative punishment on the initiative of his/her employer, during the period between meetings of the municipality, without prior permission of the chairperson of the municipality.

4. A municipal member shall report to his/her electors not less than once every 6 months.

5. If a municipal member leaves the municipality and moves to live permanently in another place, or if he/she cannot perform his/her duties in the municipal area due to other reasons, he/she shall submit a resignation in writing (sends an application to the municipality). This application shall be examined and an appropriate decision shall be adopted at the next meeting of the municipality. Electors in the relevant municipal territory shall be informed of that decision.

6. If a municipal member for any reason leaves the municipality during his/her term of office, a new election shall be conducted in the relevant municipal area within 80 days in accordance with the Election Code of the Republic of Azerbaijan.

### **Article 16. Meeting of municipality**

1. Meetings of the municipality shall be held not less than once per month and shall be called by the chairperson. A meeting of the municipality shall be valid if attended by more than half of its members.

Municipal members shall be notified at least 5 days prior to the meeting.

Meeting of municipality shall begin with the registration of municipal members participating at the meeting. A municipal member who is unable to participate at the meeting for a good excuse shall notify the chairman of municipality thereof in advance.

Except for cases of convening of the meeting of municipality on the initiative of at least 25 percent of the citizens residing in the territory of the municipality and entitled to vote, or at least one third majority of municipal members, chairman of the municipality shall submit the draft agenda of the meeting for discussion.

The municipality operates in line with the regulations approved at a meeting of the municipality. The rules on convening of municipality and public meetings, and other issues regarding the activities of the municipality are reflected in the regulations. A sample regulation may be recommended for municipalities by the relevant executive authority.

2. Meetings of a municipality shall be convened on the initiative of at least 25 percent of the citizens residing in the territory of the municipality and entitled to vote, or at least one third majority of municipal members. The agenda of a meeting convened at the initiative of at least 25 percent of the citizens residing in the territory of municipality and entitled to vote, is determined by the initiators of the meeting. Draft agenda of the meeting convened at the initiative of one third majority of the municipal members, shall be submitted by the initiators for a discussion at the meeting of municipality for approval. If the chairman of the municipality, and in case of his/her absence the deputy performing his/her functions, refuses to convene a meeting, or either directly or with assistance of other persons hinders in any way its convening, the municipal members initiating the meeting, may convene independently in case of participation of more than half of the municipal members in accordance with paragraph 1 of this Article. In case of failure of the meeting convened upon initiative of at least 25 percent of citizens residing in the territory of municipality and entitled to vote, these initiators may apply collectively to the body responsible for administrative supervision, and (or) the court.

3. Responsibilities of municipal members and other participants during municipal meetings shall be regulated by the municipal charter.

4. In accordance with the second part of Article 145 of the Constitution of the Republic of Azerbaijan, decisions on issues discussed in municipal meetings shall be adopted by a simple majority of votes of municipal members.

5. A meeting of municipality shall be conducted by a chairman of municipality, in case of his/her absence by his/her deputy. A secretary of the meeting shall be selected among municipal members. If a chairman of municipality, and in case of his/her absence his/her deputy evades chairmanship on a meeting convened upon the initiative of the municipal members or at least 25 percent of citizens residing in the territory of municipality and entitled to vote, the chairman of the meeting shall be elected from among the municipal members by the municipal members participating at the meeting.

6. Formal minutes shall be recorded for each meeting of the municipality. The formal minutes shall be signed by the chairman and the secretary of a meeting and sealed by the municipality. The number (numbers are updated at the beginning of each year) of the meeting, time and place of the meeting, information about participating and absent the municipal members at the meeting and invited persons, the chairman, the secretary, the agenda of the meeting, the results of the voting held for adoption of the agenda, surnames, names of speakers, a summary of the report, a summary of the presentations, the decision taken with regard to the discussed issues and the results of the voting held in this connection shall be indicated in formal minutes of the meeting. The municipal member shall be entitled to review the text and to express his/her written comments before approval of the formal minutes. The formal minutes of the meeting of the municipality shall be recorded in the registry, the number assigned by the registry shall be considered as a number for the minutes.

### **Article 17. Permanent and other commissions of a municipality**

1. A municipality may establish permanent and other commissions in order to prepare in advance and review matters within its responsibility, assist the municipality to implement its decisions, control the activities of enterprises and organizations which belong to the municipality.

2. Permanent and other commissions may invite experts within fields relevant to their responsibilities to assist in organizing their activities.

3. While creating permanent and other commissions, important local issues shall be taken into consideration, and they shall operate on the basis of the statute "On permanent and other commissions of municipalities" and the municipal charter.

4. The basic duties of permanent and other commissions of a municipality shall be as follows:

- 1) prepare programs of local importance for social protection and social development, ecology, economic development, and local services and to present them for discussion to the municipality or the local population
- 2) discuss important local issues, to prepare programs, information and draft decisions and other materials to be discussed at municipal meetings;
- 3) prepare proposals for the municipality and for its executive body;
- 4) assist in organization and monitoring the implementation of directions from voters.

5. Permanent and other commissions shall report to the municipality and shall be accountable to it.

### **Article 18. Executive body of municipality**

The executive body of a municipality shall be its executive apparatus. The municipal apparatus shall consist of the chairperson of the municipality, structural departments defined by this law and the municipal charter, and other executive structures created in accordance with the municipal charter.

The executive apparatus shall conduct the organization of the municipality, as well as its permanent and other commissions, provides informational, stationery affairs, financial-logistical support of the municipality, carry out assignments set by the chairman of the municipality, ensure implementation of the decisions of the municipality. Heads of the departments of the executive apparatus of a municipality shall report to the chairman of municipality and the municipality on the work done, and provide information on matters relating to their competence for the permanent and other commissions.

The chairperson of a municipality shall manage the activity of the municipal executive apparatus.

In accordance with the directions of the municipality, the municipal chairman shall appoint the heads of the executive structures created to implement services for the local population and economic and social development programs.

### **Article 19. Chairperson and deputy chairperson of municipality**

1. The chairperson of the municipality shall be elected from amongst municipal members at the first meeting of the municipality, by secret or open ballot. The chairperson shall be considered to be elected if he/she obtains the majority of the members' votes.

2. Where necessary the municipality shall elect a deputy chairperson. Deputy chairpersons shall be elected by a secret or open ballot of municipal members. Deputy chairpersons shall be considered to be elected if they obtain a majority of the municipal members' votes.

3. The chairperson and deputy chairperson of a municipality may be subjected to pre-term dismissal in the following cases in the order provided in paragraphs 1 and 2 of the Article:

- 1) addressing in writing about dismissal at his/her own initiative;
- 2) making decision willfully on the issues related to powers of municipal meetings;
- 3) failure to implement decisions of the municipality (excluding those decisions contradicting with the legislation and those execution of which staying beyond his/her possibilities);
- 4) failure to carry out his/her duties due to lost of work capability for the period more than 6 months;
- 5) failure to perform his/her duties entrusted to him by the legislation for the period of 3 months;
- 5-1) failure to organize the discussion and approval of the local budget in a manner specified in Article 10 of the Law of the Republic of Azerbaijan "On the fundamentals of municipality financing";
- 6) other cases provided by the legislation and municipal charter.

4. The chairperson of the municipality shall issue orders and instructions and sign municipal decrees.

5. The deputy chairperson shall implement instructions of the chairperson of the municipality and replace him/her, if he/she is absent.

6. Chairman of the municipality or the acting chairman of municipality, whose terms of office have expired or who has prematurely released from office, should deliver all documents regarding the activities of municipality to the new chairman of the municipality (to the acting the chairman of municipality) within 10 days.

### **Article 20. Status of municipal members**

1. The state shall secure that municipal members may implement their powers efficiently and without any obstacles, and shall defend their honour and dignity.

2. The terms of office of a municipal member shall be 5 years.

3. The terms of office of a municipal member shall only be effective in the period of terms of office of a municipality

4. Municipal members may implement their powers permanently, in accordance with the municipal charter.

5. Social support (related to their work) for permanent municipal members shall be defined by the laws of the Republic of Azerbaijan and the municipal charter.

**Article 21. Forfeiture of office by municipal member**

A municipal member may forfeit his/her position in the following cases:

- 1) If he/she is subject to an official accusation verdict of a court to undertake compulsory medical treatment;
- 2) If he/she is subject to an official decision of the court regarding disability or incapacity;
- 3) If he/she is no longer a citizen of the Republic of Azerbaijan, or becomes a citizen of another country, or if he/she accepts obligations before another country;
- 4) If he/she dies
- 5) If he/she is subject to an official decision of the court regarding death or disappearance.

**Article 22. Termination of terms of office of municipal member**

The term of office of a municipal member shall be terminated when his/her term of office expires.

The term of office of a municipal member may be terminated in advance in the following circumstances:

- 1) If votes are miscounted during the municipal election;
- 2) If he/she resigns in writing as a municipal member ;
- 3) If he/she does not fulfil the qualifications for a municipal member defined in the law
- 4) If he/she occupies an official position in the legislature, in executive bodies or a court or occupies an official position in municipal service;
- 5) If a medical panel formed by a court concludes that, due to a disability, the member will not be able to exercise his/her powers for a period more than 6 months.
- 6) If he/she is absent at municipal meetings without good excuse three times consecutively or absent at more than half of the meetings held during the year without good excuse.

**Article 23. Rules for forfeiture and termination of term of office of municipal members**

In cases covered by Articles 21 and 22 of this law, the term of office of the municipal member shall be forfeited or terminated following a decision adopted, by a majority of votes, in a municipal meeting, in accordance with Articles 144 and 145 of the Constitution of the Republic of Azerbaijan.

If the circumstances described in paragraphs 1, 2, 3 and 5 of Article 21, and paragraphs 1, 3 and 5 of Article 22 are relevant, the municipality shall determine its decision following receipt of the official decision of the court.

**Article 24. Other bodies of municipalities and their officials**

The municipal charter may consider the establishment of other municipal bodies and appointment of relevant officials.

**Article 25. Municipal services**

1. Persons occupying positions in municipal bodies shall be municipal employees.
2. Legal regulation of municipal service, as well as status of municipal employees, and rules and terms of implementation of municipal service, shall be implemented in accordance with the Constitution of the Republic of Azerbaijan, laws, and the municipal charter.

3. For the purposes of calculating allowances in accordance with legislation on state service, service in municipal bodies shall be included into employee's total years of service and attracts equal benefits.

#### **IV CHAPTER DIRECT EXPRESSION OF WILL BY CITIZENS AND OTHER FORMS OF IMPLEMENTATION OF LOCAL SELF GOVERNMENT**

##### **Article 26. Local public opinion survey**

1. Local public opinion survey may be conducted on the issues of local importance.
2. A municipality shall adopt a decision about conducting a local referendum on its own initiative and in accordance with the municipal charter, or on the request of the population.
3. All citizens living in the territory of the municipality and who have the right to vote shall have the right to participate in local public opinion survey. Citizens may participate in a local referendum directly and of their own will.
4. Voting in local public opinion survey shall be conducted either by secret ballot, and it shall be prohibited to control voters' choices of whom they vote for.
5. Rules for designation and implementation of local public opinion survey shall be regulated by the laws of the Republic of Azerbaijan.

##### **Article 27. Municipal elections**

1. Municipal elections shall be conducted with suffrage defined by law, by means of a free, in-person, and secret ballot on the basis of a common, equal, direct electoral right.
2. Elections to municipal bodies shall be conducted in accordance with the Election Code of the Republic of Azerbaijan.
3. State bodies of the Republic of Azerbaijan shall ensure that municipal elections are democratic.

##### **Article 28. Meetings of citizens**

1. In territories with less than 500 people citizens may conduct meetings in that area to express their opinions on issues of local importance, to propose motions, to express a collective opinion and to make decisions.
2. Citizens who are 18 years old, and who live in the territory of these municipalities shall have right to participate in these meetings.
3. The municipal charter and other decisions shall be adopted, changed or canceled at meetings of citizens.
4. Meetings of the citizens shall be valid if attended by at least 25% of the citizens who have the right to vote and who live in the municipal area.
5. Restriction with a number of population provided in paragraph 1 of this Article shall not cover meetings conducted for express attitude to consolidation and separation of municipalities.

**Article 29. Population's initiative to establish municipal acts**

The population shall have the right to initiate action to establish municipal acts on issues of local importance, in accordance with the municipal charter. Draft municipal acts on issues of local importance presented by the population must be discussed at open meetings, with participation of the people's representatives, and the results must be officially announced.

**Article 30. Citizens' appeal to municipalities, municipal bodies and municipal officials**

1. Citizens, individually or as a group, shall have the right to appeal to municipalities, municipal bodies and municipal officials.

2. Municipalities, municipal bodies and municipal officials must respond to the citizens within one month in relation to the subject of their appeal.

Appeals of those natural and legal persons willing to get land shall be considered by the municipalities within 10 days.

3. Violation of the period and rules for responding to appeals of citizens who have applied to municipalities, municipal bodies and municipal officials shall be subject to relevant liability in accordance with this law and other laws of the Republic of Azerbaijan.

**Article 31. Other forms of participation of the population in implementation of local self-government**

Besides the methods of implementation of local self-government considered by this legislation, citizens may participate in other forms of implementation of local self-government (local committees, associations, charitable organizations etc) if these are not contrary to the Constitution of the Republic of Azerbaijan, this law, other laws and the municipal charter.

**V CHAPTER  
ECONOMIC BASIS OF LOCAL SELF-GOVERNMENT****Article 32. Economic basis of local self-government**

1. The economic basis of local self-government shall consist of municipal property, local finance, and property which belongs to the state but which is put at the municipality's use and which serves the population living in the municipality.

2. The municipality shall have the right to be the 'owner' of its own property, which means that the municipality independently owns, uses and gives instructions about its own property.

**Article 33. Municipal property**

1. Municipal property shall consist of assets of the local budget created from local taxes and payments; municipal non-budget funds; municipal property as well as municipal land; municipal enterprises and organizations; municipal apartment stock and buildings other than dwellings; roads that do not belong to the state or are personal property; municipal education, health, culture and sport organizations; other movable and fixed property.

2. Municipalities shall manage municipal property. Municipalities shall exercise property rights on all municipal property. In cases defined by the laws of the Republic of Azerbaijan these rights shall be exercised directly by the population.

3. According to the law, municipalities may have the right to assign structures of municipal property to physical and legal entities for permanent or temporary use, lease them, privatize municipal property in accordance with the rules defined by the law, conclude deeds relating to municipal property, define terms of usage of the privatized and utilized property in agreements and contracts.

4. Municipalities may define, for the local population's benefit, terms of use of land which is within the borders of the municipality, in accordance with the law.

5. Unless otherwise provided by the law, the rules and terms for privatizing municipal property shall be determined by the population directly or by the municipality independently. Income received from privatization of municipal property shall be transferred to the local budget.

6. Municipal property may only be used for official municipal purposes provided by the Constitution of the Republic of Azerbaijan and this law.

7. The state shall protect municipal property and assist it to increase by allocating subsidies, credits and grants.

#### **Article 34. Right of municipality to create a legal person**

According to the law, municipalities may create legal persons for economic and other activity not prohibited by the law, and may resolve the issues related to their re-organization or termination.

#### **Article 35. Relations between municipalities and legal persons they have created**

1. Municipalities shall define the aims, terms and rules of activity of legal persons; regulate prices and tariffs of goods (services); approve their charters; appoint and release their managers; listen to the reports on their activity.

2. Relations between municipalities and managers of legal persons shall be established in accordance with civil and labor legislation.

3. Terms of establishment, operation and management of municipal educational institutions shall be regulated by the Law of the Republic of Azerbaijan "On education".

#### **Article 36. Relations between municipalities and other legal and natural persons**

1. Relations between municipalities and other legal and natural persons shall be established on a contractual basis.

2. Municipal bodies may coordinate, in accordance with the law, the activities of legal and natural persons, for social and economic development.

3. Except as defined by the laws of the Republic of Azerbaijan, municipalities may not limit the economic activities of legal and natural persons.

#### **Article 37. Municipal requisitions**

Municipalities may utilize their material and financial assets to repair the territory of the municipality, provide municipal services, construct and repair social infrastructure buildings, produce consumer goods to meet social and general requirements of the population, provide services and other works.



**Article 38. Foreign economic activity of municipalities**

In accordance with rules defined by the law, municipalities shall have the right to be engaged in foreign economic activity for the local population's well-being.

**Article 39. Local budgets**

1. Municipal budgets shall consist of local budgets.
2. Municipalities shall independently form, approve and implement local budgets.

**Article 40. Income and outcome of local budgets**

1. Local taxes and payments, necessary funds allocated by executive bodies and legislation (in accordance with part II of Article 73 and part II of Article 144 of the Constitution of the Republic of Azerbaijan) for municipalities to implement their functions, funds obtained from privatization, lease of municipal property, local lotteries, payments for street advertisements in lands and buildings belonging to municipally property, taxes retained from the income of municipal organizations, enterprises and offices, grants, subventions, transfer payments, other incomes (in accordance with the laws and municipal decisions), other funds created as the result of municipal activity shall form incomes of local budgets.

2. Municipalities shall independently manage local budgets.

3. Financing of the implementation of functions transferred to municipalities by legislative and executive bodies, and of resolution of issues of local importance, shall be shown separately in the income and expenditure sections of the local budget.

**Article 41. Provision of local budgets**

1. State bodies, in accordance with the law of the Republic of Azerbaijan, shall form local budgets sufficient to implement the normal responsibilities of the municipality by approving payment of the income resources necessary for covering the expenses of the local budgets.

2. Income requirements for local budgets shall be considered annually for the relevant municipalities when adopting the state budget of the Republic of Azerbaijan. The part of expenditures in local budget not supported by its incomes may be covered by grants earmarked by the state budget.

3. Municipalities may not provide living standards for their population that are below the state's social standards in the relevant fields of municipal activities. To meet these standards, the state may provide assistance to municipal bodies by approving transfer of a relevant allocations to the income of municipalities.

4. The financial and agricultural statistics of enterprises and organizations owned by municipalities must be registered by the relevant executive bodies. Rules for registration are defined in legislation of the Republic of Azerbaijan.

**Article 42. Financing implementation of various state functions and compensation for additional municipal expenses**

1. In case if legislative and executive bodies grant additional functions to municipalities, they shall be provided with financial means necessary for implementation of these functions.

2. If a municipalities' expenditure increases and/or income decreases due to decisions approved by executive bodies of the Republic of Azerbaijan, these bodies shall pay compensation to the municipality. The amount of compensation shall be determined by the time of relevant decree's approval. The municipality shall implement the decisions of the

state bodies, which caused additional expenses, within the limits of the compensation granted.

#### **Article 43. Local taxes and payments**

1. Municipalities shall define local taxes, payments, as well as concessions on their payments due, in accordance with the Tax Code of the Republic of Azerbaijan.
2. Municipalities, in the order provided by the legislation, may apply voluntary single payments paid by natural and legal persons for financing target projects carried out on the basis of results of local public opinion survey.
3. Decisions on local taxes and payments shall be adopted by a two thirds majority of municipal members.

*Article 44. Excluded*

#### **Article 45. Municipal off-budget funds**

Within the rules and on the terms determined within the specifications of the laws of the Republic of Azerbaijan, municipalities may create off-budget funds for specific purposes..

#### **Article 46. Participation of municipalities in credit relations**

In accordance with the laws of the Republic of Azerbaijan, municipalities may establish municipal lotteries and receive credits.

### **VI CHAPTER LEGAL GUARANTEES FOR LOCAL SELF-GOVERNMENT**

#### **Article 47. Prohibition of limitation of rights of local self-government**

1. Limitation of municipal rights which are defined by the Constitution of the Republic of Azerbaijan or other laws shall be prohibited.
2. The rights of citizens to implement local self-government may be limited by law only and for the period defined by law and in order to protect constitutional structures, defense of the country and to ensure state security.

#### **Article 48. Legal force of municipal decisions**

1. In accordance with Article 145 of the Constitution of the Republic of Azerbaijan, municipal decisions shall be adopted by a simple majority of votes of municipal members. Municipalities, in the period not later than 15 days from the date of adoption of decision, must forward that decision to the authority implementing administrative control over activity of municipalities.
2. Decisions adopted by a municipality may not violate the rights and powers of legal and natural persons located within the territory of the municipality.
3. All legal and natural persons located within the territory of a municipality, regardless of their organizational or legal status, shall be obliged to implement all decisions adopted by the municipality which are within the municipality's powers .
4. Municipal decisions may be overturned by the bodies which made those decisions or can be invalidated by the decision of a court.

5. Persons may be brought to liability for failure to implement municipal decisions in accordance with the law.

**Article 49. Consideration of appeals of municipalities, municipal bodies and municipal officials**

Appeals by municipalities, municipal bodies and municipal officials must be considered within one month by state bodies, political parties, public associations, trade unions, other legal persons and their officials.

**Article 50. Judicial protection of local self-government**

Citizens living in the territory of a municipality, municipalities, municipal bodies, and municipal officials may apply to a court to overturn acts violating local self-government rights, issued by state bodies and state officials, municipalities, municipal bodies and municipal officials, legal persons created by the municipalities, public associations.

**VII CHAPTER  
RESPONSIBILITIES OF MUNICIPALITIES, MUNICIPAL BODIES  
AND MUNICIPAL OFFICIALS, CONTROL OVER THEIR ACTIVITY**

**Article 51. Responsibilities of municipalities, municipal bodies and municipal officials**

In accordance with the legislation municipalities, municipal bodies and municipal officials shall be accountable for actions or failures to act which are in contradiction with the law.

**Article 52. Administrative control over activity of municipalities, municipal bodies and municipal officials**

Relevant executive body of the Republic of Azerbaijan shall control observation of the Constitution and laws the Republic of Azerbaijan by municipalities, municipal bodies and municipal officials.

Relevant commissions and voters may be involved in implementation of administrative control over activity of municipalities.

**Article 52-1. Duty of municipalities to disclose information**

Municipalities shall secure implementation of the right of anyone to get information freely, without obstacles and in an equal basis provided by the Constitution of the Republic of Azerbaijan and in accordance with the Law of the Republic of Azerbaijan on Freedom of Information.

**Article 52-2. Reports of municipalities.**

Municipalities shall submit reports on their activities to the Milli Majlis of the Republic of Azerbaijan in the following cases:

- 1) the implementation of additional powers granted to the municipality by the legislative authority in accordance with Part II of Article 144 of the Constitution of the Republic of Azerbaijan;
- 2) the use of funds allocated to local budgets from the state budget of the Republic of Azerbaijan in cases established by this Law.

Municipalities shall submit a report on results of year until 1 April.

**Article 53. Appeals against decisions and actions of municipalities, municipal bodies and municipal officials**

Decisions and actions (inactions) of municipalities, municipal bodies and municipal officials may be appealed in administrative order or in court in accordance with the law.

**VIII CHAPTER  
FINAL AND TRANSITIONAL PROVISIONS****Article 54. Formation of municipal property**

1. The State shall transfer required proportion of land and state property structures to the property of the municipality for resolution of issues of local importance.
2. Problems related to transfer of state property structures to municipal property shall be resolved by a court.
3. Non-existence of municipal property within the territory of a municipality shall not be a sufficient reason to refuse from the establishment of a municipality.

**Article 55. Call for first meeting of citizens**

1. First meeting of citizens shall be called by initiative groups.
2. Creation of initiative groups, organization and conduct of meetings of citizens, shall be regulated by the relevant instructions of the Central Election Commission of the Republic of Azerbaijan.

**Article 56. Entry into force of the law**

This law shall enter into force from the date of its publication.

*Heydar Aliyev  
President of the Republic of Azerbaijan  
Baku, 2 July 1999  
# 698-IQ*