

RULES AND REGULATIONS GOVERNING THE LICENSING OF DHABA IN BANGALORE

State: Karnataka

Details of licensing are as follows:

Dhaba's are regulated as per the direction of Karnataka Municipal Corporation Act 1976 where as the directions for timings for operation are fixed by the Karnataka Shops and Commercial Establishment Act 1961. Provisions of Prevention of Food Adulteration Act are also applicable to food related items.

As per section 343 of Karnataka Municipal Corporation Act 1976, No person shall, without or otherwise than in conformity with the terms of a license granted by the Commissioner keep any eating house, tea-shop, coffee-house, cafe, restaurant, refreshment room, or any place, where the public are admitted for repose or for the consumption of any food or drink or any place where food is sold or prepared for sale.

The Commissioner may at any time cancel or suspend any license granted if he is of opinion that the premises covered thereby are not kept in conformity with the conditions of such license or with the provisions of any bye-law made under section 423 relating to such premises whether or not the licensee is prosecuted under this Act.

As per section 353, No place within the limits of the city shall be used for any of the purposes mentioned in Schedule X without a license obtained from the Commissioner and except in accordance with the condition, specified therein. The Commissioner shall, if so required by the corporation, publish a notification in the Official Gazette and in two or more local newspapers that any place at a distance within five kilometers of the limits of the city shall not be used for any one or more of the purposes mentioned in Schedule X without a license obtained from the Commissioner and except in accordance with the conditions specified therein: Provided that no such notification shall take effect, unless the sanction of the Government has been obtained therefore and until the expiry of thirty days from the date of its publication in the Official Gazette.

Section 370 says that no person shall, without the permission of the Commissioner, or if the fees have been farmed out, of the farmer, sell or expose for sale any animal or article within any public market. Any person who contravenes sub-section (1) or any condition of the license or any regulation made under section 378 or in any bye-law made under section 423 or who commits default in payment of the fees leviable under section 369 may after three clear days' notice be summarily removed from such market by any corporation officer or servant and any lease or tenure which any person may possess may be terminated for such period and from such date as the Commissioner may determine without prejudice to the legal rights of the corporation to prosecute the person or to recover the fees leviable under section 369 and expenses, if any which the corporation may incur in such removal. Dhaba's requires a license.

Licensing Procedure:

Bruhat Bangalore Mahanagar Palika issues license as per the provisions of Karnataka Municipal Corporation Act 1976.

As per the Karnataka Municipal Corporation Act, the owner or occupier of every place for the use of which for any purpose a license is required under the act shall apply to the Commissioner for such license not less than thirty days before the place is used for such purpose or within thirty days of the publication of the notification under sub-section (2) in the Official Gazette, as the case may be.

Section 443 says that Every license or permission granted under this Act or any rule or bye law made under it shall specify the period, if any, for which and the restrictions, limitations and conditions subject to which the same is granted and shall be signed by the Commissioner. Act also says that Every license, permission, notice, bill, schedule, summons, warrant or other document which is required by this Act or by any rule, bye-law or regulation made under it to bear the signature of the Commissioner or of any corporation officer shall be deemed to be properly signed if it bears the facsimile of the signature of the Commissioner or of such corporation officer, as the case may be, stamped thereupon.

Procedure in the Corporation as follows:

Obtain the handbook for trade license from any of the range offices or citizen centers. The handbook contains FAQ and the schedule of trade that are liable to obtain license. The handbook contains an application form. Fill the application form. The applicant needs to file the property owner's consent in plain paper or letterhead in Format B available in the handbook at page No.33. The owner has to file a copy of the latest property tax paid receipt in proof of ownership. At the time of filling the application, if the trade falls under zone A of the Comprehensive Development Plan, then the person needs to obtain immediate neighbor's consent in plain paper in Format C available in the handbook at page No 35.

The applicant is also required to file a layout plan for your trade premises showing the business/working/washing/resting/toilet areas etc. This layout plan can be certified by any licensed architect /engineer/ supervisor. However, other than hotels and restaurants, if the area of your trade premises is less than 500 square feet, certification of the layout plan is not required.

Demand draft towards the license fee payable for the trade is also required. If the applicant needs to apply for power license, you need to fill the columns in the application form and pay the applicable license fee depending on the KVA/HP of the power sanctioned. This fee is to be paid by a separate demand draft. All demand drafts should be in favor of Commissioner Bruhat Bangalore Mahanagara Palike.

If the application is not accompanied with requirements at serial numbers 4-8, the application will be rejected and an endorsement will be issued. On the date of filing the application itself the authorized officer will set the date of inspection of the trade premises.

The maximum time set for inspection is set within 3 working days. The authorized officer will come for inspection with a checklist to verify if all compliances required for your trade are met.

After the trade premise is inspected and if found satisfactory, the trade license will be issued within 3 working days thereafter. If the inspecting authority has any objection he will issue an endorsement to correct the defects. Once the defects are corrected satisfactorily, the trade license will be issued within 3 working days.

Zonal Regulation:

Bangalore City is classified into several zones as per the Comprehensive Development Plan (CDP) approved vide G O No. MUD 139 MNJ 94 dated 05/01/94. The CDP regulates the land-use for residential, non-residential, open spaces, parks etc. With respect to establishing trade, CDP regulates what trade can be set up in each of the zones. The Zonal Classification is available in Annexure D in the handbook. No Trade should violate the zonal regulation. Zone classification has to be specified in the renewal application.

Departments Involved :

Health department of the Corporation is the department concerned. Health Officer is the Authority issuing license.

Documents required for issuing license: -

1. Filled application form.
2. The property owner's consent in plain paper or letterhead in Format B available in the handbook at page No.33.
3. Copy of the latest property tax paid receipt in proof of ownership.
4. Demand draft towards the license fee payable for the trade.
Separate demand draft for power, if needed.

License Fees:-

Act says that license or permission fees shall be paid in advance as may be fixed by the corporation except in special cases provided under the Act. Provided that not more than one fee shall be levied in respect of any purpose specified in more heads than one of Schedule X if such heads form part of a continuous process of manufacture and the fee so charged shall not exceed the highest fee chargeable in respect of any one of the said purposes. The license fee to be paid for the different trades is mentioned in Schedule X PART 1 to Part VIII to this scheme. If a person have two or more schedule commodities in the same premises then he/she has to pay a compounded fee equal to twice the highest fee payable for the trades/commodities he/she is dealing. On the other hand if, in the same premises different people are running different trade, then each one pays independently for the trade carried on.

Hotels, Restaurant and all establishments' serving/selling/storing food, beverages or alcohol:

| Scheduled serial No | Item | Fees |
|----------------------------|--|-------------|
| Part I , 6 | All Star Hotels | 1,00,000 |
| 6 | Air conditioned Hotels attached with bar | 25,000 |
| 6 | Hotels without air conditioning attached with bar | 15,000 |
| 6 | Hotels with air conditioning | 10,000 |
| 6 | Hotels without air conditioning including Darshini type Hotels | 5,000 |
| 6 | Canteens at factories, nursing homes and cinemas | 2000 |
| 6 | Small coffee/tea stalls less than 200 square feet. | 1000 |
| 6 | Eating Mess more than 200 square feet. | 1000 |
| 6 | Eating mess less than 200 square feet. | 500 |

All Food & Non Food items not specifically mentioned under Part I to Part V:

| Scheduled serial No | Item | Fees |
|----------------------------|---|-------------|
| Part VI , (1) | Manufacturing, processing, storage, selling | 10,000 |
| " | Retail stores where the storing and service area is | 5,000 |

| | | |
|---|--|-------|
| | above 2000 square feet | |
| “ | Retail stores where the storing and service area is more than 1000 but less than 2000 square feet | 3,000 |
| “ | Retail shops where the storing and service area is more than 500 square feet but less than 100 square feet | 1,000 |
| “ | Retail shops where the storing and service area is less than 100 square feet | 500 |

The acceptance by the corporation of the pre-payment of the fee for a licence or permission or for registration shall not entitle the person making such pre-payment to the licence or permission or to registration, as the case may be, but only to refund of the fee in case of refusal of the licence or permission or of registration.

Refusal, suspension and Cancellation:

As per the Act, Every order of the Commissioner or other municipal authority granting or refusing a license or permission shall be published on the notice board of the corporation. If an application is denied by the commissioner, then the trader may appeal to standing committee (health) by producing the denied letter.

Notwithstanding anything contained in this Act, any licence or permission granted under this Act or any rule or bye-law made under it, may at any time be suspended or revoked by the Commissioner, if any of its restrictions or conditions is evaded or infringed by the grantee or if the grantee is convicted of a breach of any of the provisions of this Act or of any rule, bye-law or regulation made under it, in any matter to which such license or permission relates, or if the grantee has obtained the same by misrepresentation or fraud.

When any license or permission is suspended or revoked or when the period for which it was granted or within which application for renewal should be made has expired, the grantee shall for all purposes of this Act, or any rule or bye-law made under it be deemed to be without license or permission made until the order suspending or revoking the license or permission is cancelled or subject to sub-section (10) until the license or permission is renewed, as the case may be.

Inspection:

As per the act, every grantee of any license or permission, shall at all reasonable times while such license or permission remains in force, produce the same at the request of the Commissioner.

It shall be the duty of the Commissioner to inspect places in respect of which a license or permission is required by or under this Act, and he may enter any such place between sunrise and sunset, and also between sunset and sunrise if it is open to the public or any industry is being carried on at the time, and if he has reason to believe that anything is being done in any place without a license or permission, where the same is required by or under this Act, or otherwise than in conformity with the same, he may at any time by day or night without notice enter such place for the purpose of satisfying himself whether any provision of law, rules, bye-laws, regulations, any condition of a license or permission or any lawful direction or prohibition is being contravened and no claim shall lie against any person for any damage or inconvenience necessarily caused by the exercise of powers under this sub-section by the Commissioner or any person to whom he has lawfully delegated his powers or by the use of any force necessary for effecting an entrance under this sub-section.

License Renewal

As per the Act, Every license shall expire at the end of the year for which it is granted, or at such earlier date as the Commissioner may, for special reasons, specify in the license. Applications for renewal of such licenses shall be made not less than thirty days before the commencement of the year for which renewal is sought. The license may be renewed to such conditions or the Commissioner may specify restrictions as or he may refuse to renew if it is likely to cause nuisance in the neighbourhood. Where a license is granted under this section for the use of any place outside the limits of the city, the corporation shall pay to the local authority within the limits of which such place is situated, such proportion of the fee received by the corporation for the grant or renewal of such license as the Government may, by general or special order, determine.

License Renewal:

Trade License Renewal Center's will be opened at all business areas in the city from the 15th March 2007 to 31st March 2007. This center's will issue Renewal Application Handbook, accept renewal applications and issue renewed licenses. The license issued expires on the 31st of March each year. You need to apply for renewal before last day of February each year. Applications received from the last day of February till the 31st March will be automatically renewed.

Normally, there will not be an inspection of the trade premises for renewal before 31st March, unless warrant and directed by the Commissioner or the delegated authority. However, designated staff of Bangalore Mahanagara Palike will carry out random inspection after the trade license has been renewed.

Renewal under the scheme (Suvarna Arogya Paravanagi) is done on the basis of an affidavit filed on a One hundred Rupees Stamp paper to the effect that the applicant will continue to carry on the trade as per regulation and other laws in force for the respective trade.

Renewal Fees:

Applications received from the last day of February till the 31st March will be automatically renewed. Application for renewal received between 1st March and 31st March will be done only after inspection of the trade premises besides a penalty of 25 percent of the license fee. For the current year renewal 2007-08 this condition is relaxed. Application received after 1st April will be done only after inspection of the trade premises besides the levy of penalty equal to the fee prescribed. For the current renewal for 2007-08 only, the applications received for renewal from the 15th of March to 31st March 2007 will not attract any penalty. Applications for renewal received from 1st April 2007 to 15th April 2007 will be issued only after inspection of the trade premise and will also attract a penalty of 25 percent of the license fee. Applications received after 15th April will be issued only after inspection of the trade premises besides a penalty equal to the prescribed trade license fee.

If the person has not paid the license fee for the previous years, you are required to pay the license fee as applicable for all the years along with the fee payable for renewal for the succeeding year. For the years, ending 31st March 2006, if he/she has not renewed the license fee, in addition to the fees payable, the person will be required to pay a penalty of 50 percent of the fee applicable.

The person will have to pay separately for power depending on the sanctioned load. The applicant needs to pay either for the sanctioned power load or the generator, whichever is higher capacity. However, as and when you install a generator, you are obliged to report to the jurisdictional Medical health Officer and take an endorsement on the license book.

A trader who has paid the renewal license fee for 5 years can continue to avail the benefit till the lapse of the period. However, since the fee structure has been revised the difference in the fee has to be paid and the license renewed. If you do not want to pay at the revised rate for the balance years, you could notify the same in the application form and pay for the current year at the revised rates

Documents Required for Renewal:

The person has to file the renewal application in the prescribed form available in the handbook at Annexure E and affix your firm/company seal. He/ she is also required to file a copy of the previous license fee paid or copy of the previous license book. Application for the new registration is also available in Annexure F of the handbook. The procedure to fill up the application is available in Annexure G of the handbook.

Timings:

As per the Karnataka shops and Establishment Act 1961, no employee in any establishment shall be required to work for more than nine hours on a day and forty- eight hours in a week.

Punishment:

As per the Karnataka Municipal Corporation Act, running an unauthorized Trade is offence. The concerned authority may seize or lock your Trade business with or without intimation.

Whenever any person is convicted of an offence in respect of the failure to obtain a licence or permission or to make registration required by the provisions of this Act, or by any rule or bye-law made under this Act, the magistrate shall, in addition to any fine which may be imposed, recover summarily and pay over to the corporation the amount of the fee chargeable for the licence or permission or for registration and may in his discretion also recover summarily and pay over to the corporation such amount, if any, as he may fix as the costs of the prosecution.

Such recovery of the fee shall not by itself entitle the person convicted to a licence or permission or to registration as aforesaid.

Under the law it is mandatory to apply and obtain a trade license from the jurisdiction Health Officer. If one contravenes then, with a view to protect public health, the jurisdiction Health Officer or any officer authorized by the Commissioner can summarily close or seal the trade premise until such time license is obtained.

As per the act, keeping an eating house without a license or in contrary of a license will charge a penalty of Rs.100/-