

RULES AND REGULATIONS GOVERNING THE LICENSING OF DHABA IN MYSORE

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 therefor; 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.

In Mysore, Dhaba's requires a license.

Licensing Procedure:

Mysore City Corporation 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 licence 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 licence, 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

At first the applicant should apply in the Prescribed Application Form 353 and application form 354 (if Motive power is used) from the Municipal Office which costs Rs.2/- each. The concerned ward Health Inspector will give the details of License fees for that particular trade and the trader has to get his signed filled applications along with the fees has to be submitted to the concerned ward Health Inspector. The license will be issued after inspecting the place of trade, regarding suitability of the trade.

As per the Act, an applicant for the removal of a licence or permission, or registration, shall until communication of orders on his application, be entitled to act as if the licence or permission or registration had been renewed; and save as otherwise specially provided in this Act, if orders on an application for licence or permission or for registration are not communicated to the applicant within forty five days after the receipt of the application by the Commissioner, the application shall be deemed to have been allowed for the year or for such less period as is mentioned in the application and subject to the provisions of this Act, the rules, bye-laws, regulations and all conditions ordinarily imposed

Departments Involved:

Health department of the Corporation is the department concerned. The authority is the concerned ward Health Inspector

Documents required for issuing license: -

1. Application Form 353
2. Affidavit copy for the proof of trade by stamp paper with notary seal for running the trade
3. Address proof in the owner's name
4. Tax paid for the current year up to date with receipt copy
5. Owner/Neighbour consent letter
6. Rent agreement copy if rented premise

7. Any other documents, if asked for

License Fees:

Act says that licence 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.

As reported by the intern, at present the fees is Rs.500/- within city limits upto 5 kilometres. Rs.250/- is the fees for above 5 kilometres (urban Areas). Rs.3000/- will also be charge for validity for every year

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

Processing:

License will be issued from 1st April to 31st March of each and every year. Normally it will take 8 to 10 days. In case if documents are incomplete and incorrect it may take more time.

Refusal, suspension and Cancellation:

As per the Act, Every order of the Commissioner or other municipal authority granting or refusing a licence or permission shall be published on the notice board of the corporation if an application is denied by the commissioner, and 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 licence or permission relates, or if the grantee has obtained the same by misrepresentation or fraud.

When any licence 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 licence or permission made until the order suspending or revoking the licence or permission is cancelled or subject to sub-section (10) until the licence or permission is renewed, as the case may be.

Inspection:

As per the act, every grantee of any licence or permission, shall at all reasonable times while such licence 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 licence 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 licence 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 licence 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

Renewal period is from January 1st to March 31st of every year. 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.

As per the Regulations of corporations, the license issued will be having validity for 1 year. For the renewal of license, every person have to pay the stipulated fees according to the last year basis on or before 29th February each and every year. After then only the license is renewed for future years and handover to us. Meantime we have to surrender the old license to City Corporation Office.

Applications for renewal of such licenses shall be made not less than 30 days before the commencement of the year for which renewal is sought Delayed renewal will attract of 50% license fees. If trade License has expired three months back, then the trader have to pay the renewal fees with 50% fine. If license has expired more than a year back, the due fee along with fine, the present year fee has to be paid.

Renewal Fees:

Fees are same as that of fresh license.

Documents Required for Renewal:

1. Original License copy.
2. Previous year fees challans.
3. Up to date tax paid receipt.

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.

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