

# THE LIVELIHOOD REGULATIONS REPORT

## RAJKOT



PREPARED BY



IN PARTNERSHIP WITH



Centre for Civil Society

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## **PREFACE**

The Livelihood regulations report aims at documenting the livelihood regulations and barriers in the informal sector. It was conducted in 63 cities across India where the Jawaharlal Nehru National Urban Renewal Mission (JNNURM) is being implemented. This project was conducted by Centre for Public Policy Research, Cochin in partnership with Centre for Civil Society, New Delhi and is financed by Sir Dorabji Tata Trust (SDTT), Mumbai.

The report aims to unveil the laws applicable to entry-level professions like Auto Rickshaws, Barber Shops, Dhaba's, Meat Shops and mobile/stationary street vegetable/fruit vendors. These documents will effectively draw public attention to the issues faced by the entry-level professions in the informal sectors

Rajkot is the 4th largest city in the state of Gujarat, India. Rajkot is the 28th urban agglomeration in India, with a population more than 1.43 million as on 2008. Rajkot is ranked 22nd in The world's fastest growing cities and urban areas from 2006 to 2020.

Rajkot is a city of Gujarat state in India and administrative headquarters of the Rajkot District, located on the banks of the Aji River and Niari River. Rajkot was the capital of the then Saurashtra state from 15 April 1948 to 31 October 1956 before merging in bilingual Bombay State on 1 November 1956. Rajkot was merged into Gujarat State from bilingual Bombay state on May 1, 1960.

Rajkot had a total population of 10,03,015. Males are 5,25,898 and females are 5,25,898, in percent males are 52.43% and females are 47.57% of the total population in Rajkot (RMC) and it's suburbs including Manharpur, Madhapar, Anandpar, Munjka, MotaMova, Vavdi, Bedi and Kotharia. Figures are as of 2006. Rajkot city has an average literacy rate of 80.6%, higher than the national average. A clear majority of the people here are Hindus. In fact, over 90% of the people are Hindus. Jains also form a big group belonging to the bania caste.

The present report of the livelihood regulations in Rajkot covers dhaba, vegetable sellers, auto rickshaw, barber shop and cycle repair shop.

## **RAJKOT**

The trades chosen for the study are:

- 1. Dhabha/ food courts.**
- 2. Vegetable Sellers**
- 3. Auto Rickshaw**
- 4. Barber Shop**
- 5. Cycle Repair Shop**

Rajkot Municipal Corporation is governing under the provisions of Bombay Provincial Municipal Act, 1949. The Bombay shops and Establishment Act 1948 prescribes timing for operation where as motor vehicles are regulated By Gujarat Motor Vehicle Rules 1989 and Motor vehicles Act 1988. Trade wise details are as follows:

### **I.DHABA:**

Dhaba's are regulated as per the direction of Bombay Provincial Municipal Corporation Act 1949 where as the directions for timings for operation are fixed by the Bombay Shops and establishments Act 1948. Provisions of Prevention of Food Adulteration Act are also applicable to food related items.

Eating Houses are the Place where the foods and drinks are serving to the public. Bombay Shops and Establishment Act defines eating house as Any premises in which is carried on wholly or principally the business of the supply meals or refreshments to the public or a class of the public for consumption on the premises. In a dhaba, there is the need of a well-furnished kitchen, proper setting arrangement, refreshment room.

As per the Section 376 of the Bombay Provincial Municipal Corporation Act 1949, no person shall carry out any trade without a license if it is in the opinion of commissioner is dangerous and can create nuisance. Part 1V of the chapter XVII says that keeping eating-houses needs license. Commissioner can grant the license and the licensee is supposed to keep the license in the premises upon which it relates. Section 376 gives power to the commissioner to stop the use of any premises if it is a nuisance or dangerous to life health etc in his opinion.

Section 318 says that the commissioner on the satisfaction in the public interest by a written order directs that any place where food or drinks are sold or prepared, stored or exposed for sale which a case of dangerous disease exists or has recently occurred shall be closed for such period as may be specified in the order. Provided that the place may be declared to be open if medical officer of health certifies that it has been disinfected or is free from infection.

Section 337 says commissioner have to make provisions for constant and vigilant inspection of animals, vegetables, fruit and any other article exposed or hawked for sale. The act also gives power to the commissioner to inspect and examine any animal or article used for preparing or manufacturing or containing the same. The commissioner can seize the animal or article which has appeared as unfit for human consumption.

Section 377 says that no person can sell or expose for sale any animal or article without a license from the commissioner. The commissioner can summarily remove any person contravening the section. Section 384 clearly says that no person can use any public place or any public street for hawking or sale any article without a license and the conditions specified in it. Therefore, it is clear that a dhaba needs license.

In Rajkot dhabas are regulated by Rajkot Municipal Corporation. For running a Dhaba, the owner have to take Shop license (Bombay Shops and establishments Act), Food license( prevention of food Adulteration Act 1954) and entertainment license. The Shop license & Food license are issued by Rajkot Municipal Corporation. Entertainment license is issued by police commissioner

### **Licensing Procedure:**

For the issue of shop license and food license, the people have to submit the required statements to the Municipal Corporation for the registration of the establishments. The required statements for the registration of the establishment need to be submitted to the health Department.

The applicant has to fill registration form at first to get licence and then submit form with all the documents attached. The eligibility criterion for the registration is the submission of the filled application form with the required documents

As per the Bombay Provincial Municipal Corporation Act 1949 the license shall specify the period, restrictions and conditions, date for renewal etc and it should contain the signature of the commissioner. The licensee is bound to produce the license when the commissioner requires it.

After submitting the application with the supportive documents, the concerned officer will verify the shop premises and if satisfied, the department will give permit for doing business. For the inspection, there are no specific guidelines but inspector's duty is the verification of shop in regard to premises, employers and working hours. The inspection will be on the following grounds:

1. If shop or land is expanded or not?
2. How many workers are working? If it increased or not?
3. Time duration of opening and closing of shop?)

### **Documents Required:**

1. Filled application Forms.
2. All document related to premises which includes the documents of Shop premises, land etc.
3. photocopy of purchase or selling bill
4. Two photographs
5. If shop is on rent , then the agreement of rent or NOC of property holder

### **Entertainment license:**

For taking the entertainment license you have to first take a shop license & food license. Then you have to directly go to the office of the police commissioner. The procedure is that you have to submit the filled form and submit the required fees.

### **License Fees:**

The license fees for the shop license and food license is Rs.60/- and Rs.500/- is charged for getting the entertainment license.

### **License Renewal:**

The validity for Shop license is 3 years. The renewal period is 30 days and the Renewal Fess is Rs.30/- Food license is Valid up to 3years. Entertainment License is Valid up to 10 years. Renewal Period is 30 days and Renewal Fees is Rs.500/ The renewal procedure is filling up of the application form and no other documents are required.

### **Inspection:**

As per the section 337 of the act, it shall be the duty of the commissioner to make provision for the constant and vigilant inspection of animals, carcasses, meat flesh, fish, fruit, vegetables etc and any other articles exposed or hawked about for sale or deposited in or brought to in any place for the purpose of sale and intended for human consumption, the proof that the article was not intended for human food with the party charged.

The commissioner can seize and carry away any article if any animal or article appears to the commissioner to be diseased or unsound or unwholesome or unfit for human consumption or is not up to the quality represented.

### **Prohibition of Hawking:**

As per the Section 12 of Bombay Shops and Establishments Act 1948, no person shall Hawk or sell any goods in or adjacent to a street or a public place before the opening and after the closing hours fixed under sections 10 & 11. Any person contravening the provisions shall be liable to have his goods seized by an Inspector. The goods seized shall be returned to the person from whom they were seized when he deposit Rs.25 as security for his appearance in the Court. If a person fails to make the deposits, the goods seized shall be produced without delay before Magistrate who gives such directions as to their temporary custody as he thinks fit where no prosecution is instituted for the contravention of the provisions of sub-section (1) (which prohibits the hawking) within such period as the Magistrate may fix in this behalf, the Magistrate shall direct their return to the person from whom they were seized. Subject to the provisions of the preceding sub-section, the provisions of the Code of Criminal Procedure, 1898, (V of 1898) shall so far as they may be applicable, apply to the disposal of the goods seized under this section.

### **Suspension and Revocation:**

As per the act, any license may at any time can be suspended or revoked by the commissioner if the commissioner is satisfied that the license is secured by the holder through misrepresentation or fraud or if any restriction or condition is infringed or evaded by the person to whom the license has been granted. When any license is suspended or



revoked or the period for which the license granted is expired the licensee will be deemed to be without a license until the canceling of the suspension or revoking order or the renewal as the case may be. If the licensee is applying for renewal on the specified date then the applicant shall be entitled to act as if it is renewed.

### **Timings:**

As per the Bombay shops and Establishment Act 1948, no eating-house shall be open earlier than 5a.m and close later than 12 at midnight for service. An employee can start his work from 4.30 a.m. However, cannot work after 00.30 a.m. No sale will be encouraged before and after the opening and closing hours. An employee in an eating-house cannot be required or allowed to work more than nine hours in a day and 48 hours in a week.

### **Rules and Regulations from Corporation:**

1. Owner has to specify the ingredients using.
2. Every one has to take license.
3. The place where owner wish to start his business must be verified by shop inspector & Food inspector for cleaning, condition of place etc. If the authorities are satisfied with the premise then the owner will get the license.
4. owner have to pay the required fees
5. Owner must use healthy ingredient while preparing food.
6. Utensil which is used in restaurant must be clean.
7. Owner doesn't interferon in inspection while inspection comes.
8. If owner appoint servant in a dhaba then the owner have to take identity card from corporation with paying the fees Rs. 10 to the corporation under the food department.

### **Punishment:**

If person doing a business without license he will get one to three months imprisonment. As per the act any contravention of any provision of the act or rule, bye-law, standing order notice etc will liable to a fine of Rs.100 and a further fine which can extend to Rs.20 for every day if no penalty is provided for the offence in any other section of the Act. (Act can be referred in Annexure)

## **II.VEGETABLE VENDORS:**

Vegetable vendors are regulated as per the direction of Bombay Provincial Municipal Corporation Act 1949 where as the directions for timings for operation are fixed by the Bombay Shops and establishments Act 1948.Provisions of Prevention of Food Adulteration Act are also applicable to food related items.

As per the Section376 of the Bombay Provincial Municipal Corporation Act 1949, No person shall carry out any trade without a license if it is in the opinion of commissioner is dangerous and can create nuisance. Commissioner can grant the license and the licensee is supposed to keep the license in the premises upon which it relates. Section 376 gives power to the commissioner to stop the use of any premises if it is a nuisance or dangerous to life health etc in his opinion.

Section 337 says commissioner have to make provisions for constant and vigilant inspection of animals, vegetables, fruit and any other article exposed or hawked for sale. The act also gives power to the commissioner to inspect and examine any animal or article used for preparing or manufacturing or containing the same. The commissioner can seize the animal or article which has appeared as unfit for human consumption.

Section 377 says that no person can sell or expose for sale any animal or article without a license from the commissioner. The commissioner can summarily remove any person contravening the section. Section 384 clearly says that no person can use any public place or any public street for hawking or sale any article without a license and the conditions specified in it. Therefore, it is clear that a vegetable vendor needs license for operation.

In Rajkot Vegetable Vendors are regulated by Rajkot Municipal Corporation .One have to take Shop license (Bombay Shops and establishments Act, Food license and entertainment license. The Shop license & Food license are issued by Rajkot Municipal Corporation. Entertainment license is issued by police commissioner

### **Licensing Procedures:**

The procedures are same as that of dhabas. But it does not have to follow the guidelines for eating houses. It can be summarised as follows:

For the issue of shop license and food license, the people have to submit the required statements to the Municipal Corporation for the registration of the establishments. The required statements for the registration of the establishment need to be submitted to the health Department.

The applicant has to fill registration form at first to get licence and then submit form with all the documents attached. The eligibility criterion for the registration is the submission of the filled application form with the required documents

As per the Bombay Provincial Municipal Corporation Act 1949 the license shall specify the period, restrictions and conditions, date for renewal etc and it should contain the signature of the commissioner. The licensee is bound to produce the license when the commissioner requires it.

After submitting the application with the supportive documents, the concerned officer will verify the shop premises and if satisfied, the department will give permit for doing business. For the inspection, there are no specific guidelines but inspector's duty is the verification of shop in regard to premises, employers and working hours. The inspection will be on the following grounds:

1. If shop or land is expanded or not?
2. How many workers are working? If it increased or not?
3. Time duration of opening and closing of shop?)

**Documents Required:**

1. Filled application Forms.
2. All document related to premises which includes the documents of Shop premises, land etc.
3. photocopy of purchase or selling bill
4. Two photographs
5. If shop is on rent , then the agreement of rent or NOC of property holder

**Entertainment license:**

For taking the entertainment license you have to first take a shop license & food license. Then you have to directly go to the office of the police commissioner. The procedure is that you have to submit the filled form and submit the required fees.

**License Fees:**

The license fees for the shop license and food license is Rs.60/- and Rs.500/- is charged for getting the entertainment license.

**License Renewal:**

The validity for Shop license is 3 years. The renewal period is 30 days and the Renewal Fess is Rs.30/- Food license is Valid up to 3years. Renewal Period is 30 days and Renewal Fees is Rs.30/-Entertainment License is Valid up to 10 years. Renewal Period is 30 days and Renewal Fees is Rs.500/-

The renewal procedure is filling up of the application form and no other documents are required.

**Inspection:**

As per the section 337 of the act, it shall be the duty of the commissioner to make provision for the constant and vigilant inspection of animals, carcasses, meat flesh, fish, fruit, vegetables etc and any other articles exposed or hawked about for sale or deposited in or brought to in any place for the purpose of sale and intended for human consumption, the proof that the article was not intended for human food with the party charged.

The commissioner can seize and carry away any article if any animal or article appears to the commissioner to be diseased or unsound or unwholesome or unfit for human consumption or is not up to the quality represented.

**Prohibition of Hawking:**

As per the Section 12 of Bombay Shops and Establishments Act 1948, no person shall Hawk or sell any goods in or adjacent to a street or a public place before the opening and after the closing hours fixed under sections 10 & 11. Any person contravening the provisions shall be liable to have his goods seized by an Inspector. The goods seized shall be returned to the person from whom they were seized when he deposit Rs.25 as security for his appearance in the Court. If a person fails to make the deposits, the goods seized shall be produced without delay before Magistrate who gives such directions as to their temporary custody as he thinks fit where no prosecution is instituted for the contravention



of the provisions of sub-section (1) (which prohibits the hawking) within such period as the Magistrate may fix in this behalf, the Magistrate shall direct their return to the person from whom they were seized. Subject to the provisions of the preceding sub-section, the provisions of the Code of Criminal Procedure, 1898, (V of 1898) shall so far as they may be applicable, apply to the disposal of the goods seized under this section.

### **Suspension and Revocation:**

As per the act, any license may at any time can be suspended or revoked by the commissioner if the commissioner is satisfied that the license is secured by the holder through misrepresentation or fraud or if any restriction or condition is infringed or evaded by the person to whom the license has been granted. When any license is suspended or revoked or the period for which the license granted is expired the licensee will be deemed to be without a license until the canceling of the suspension or revoking order or the renewal as the case may be. If the licensee is applying for renewal on the specified date then the applicant shall be entitled to act as if it is renewed.

### **Rules and Regulations from Corporation:**

1. Owner has to specify the ingredients using.
2. Every one has to take license.
3. The place where owner wish to start his business must be verified by shop inspector & Food inspector for cleaning, condition of place etc. If the authorities are satisfied with the premise then the owner will get the license.
4. owner have to pay the required fees
5. Owner must use healthy ingredient while preparing food.
6. Utensil which is used in restaurant must be clean.
7. Owner doesn't interferon in inspection while inspection comes.
8. If owner appoint servant in a dhaba then the owner have to take identity card from corporation with paying the fees Rs.10 to the corporation under the food department.

### **Timings:**

As per the Bombay Shops and establishments Act 1948, no shops dealing wholly with vegetables, fruits, meats etc or any other goods notified by the State Government shall open any day be opened earlier than 5 am and no shops other than those clause b of Subsection (1) (trades dealing with pan bidi, cigarettes, matches and other ancillary articles) can be closed later than 8.30.p.m. Provided any customer waiting must be served during the quarter of an hour immediately following such hour.

No person shall carry on or in adjacent to a street or any public place the sale of any goods before the opening and after the closing hours fixed. Any person contravening the section shall be liable to have his good seized by an Inspector. If a person fails to produce the goods then it shall be produced without delay before a magistrate. No person shall be allowed or required to work in any shop or commercial establishment for more than nine hours in a day and more than forty- eight hours in any week.

### **Punishment**

If person doing a business without license he will get one to three months imprisonment. As per the act any contravention of any provision of the act or rule, bye-law, standing

order notice etc will liable to a fine of Rs.100 and a further fine which can extend to Rs.20 for every day if no penalty is provided for the offence in any other section of the Act. (Act can be referred in Annexure)

### **III. AUTO RICKSHAW:**

Auto Rickshaws are regulated by the RTO (Regional Transport Office). The permits are issued by the Regional Transport office of Rajkot and are issued for the whole are of Rajkot District. As per RTI reply, one needs a permit to ply regularly in the district for offering Auto Rickshaw on hire or rewards permit in the form PCOP which is valid for five years and for temporary purposes (visit places outside the region or state) temporary permits are issued.

#### **Permit Procedure:-**

For getting a city permit, One has to apply in the form "PCOPA" under section 73 and 74 of the Motor Vehicles Act 1988 to the Regional Transport Authority along with the fees of Rs.350/-. PCOP is basically the license of city permit given by RTO (Regional Transport Office). One has to contact Regional transport Office, Near Marketing Yard, Rajkot for permits.

#### **Fees:-**

The Fees for city permit is Rs.350/- as per Motor vehicle rules

#### **Documents Required:-**

For city permit (PCOP) necessary document are

1. Filled PCOP form.
2. Court Fees stamp of Rs.10/- on the application.
3. Police Station Report.
4. Driving licence
5. Fitness certificate
6. Registration Certificate of the Vehicle.
7. Insurance - vehicle insurance
8. Pollution under control certificate.

#### **Time Prescribed:**

There is no time limit for the processing of permit as per the law. But in citizen's charter as mentioned in the RTI reply the time is three days. The action prescribes in the case of the delay from the applicant in the case of the renewal of permit is the fine of Rs. 300/- whereas the punishment for the delay of government is punishable as per the service and conduct rules of 1971.

#### **Renewal procedure: -**

Renewal procedure is the submission of the filled renewal form (PCSR) to RTO department before 15 days of the expiry date of permit. As per the motor vehicles act and rules a

permit will be valid for five years. As per RTI reply, the permit is valid up to five years and in case of delay Rs.300/- as compounding fees is to be remitted along with the renewal fees.

### **Conditions:**

As per the Gujarat Motor Vehicle Rules 1989, the following are the conditions:

1. The permit cannot be driven in any public place except by a permit holder or a driver approved by the Regional Transport Officer or his assistant. The driver is supposed to carry the permit with him and shall produce it when it is demanded.
2. The number of person/ weight of kilograms carrying in the vehicle cannot exceed the weight specified in the permit
3. No advertisement can be exhibited in the vehicle.
4. The holder of a permit shall maintain a register showing the list of passengers travelling in the vehicle in each and every trip in the particular form and shall produce it as demanded by the checking officers.
5. These conditions cannot be applicable to motor cabs and maxi cabs.
6. In addition to the above conditions the permit shall always kept with the driver or any person taking care of the vehicle and produces it as demanded by any officer of the Motor vehicles Department of and above the rank of assistant Inspector of Motor Vehicles or any police officer not below the rank of a Sub-Inspector of Police.

### **Variations of conditions:**

The permit holder may apply to the Transport Authority to vary the conditions of a permit in the prescribed form along with the fees as prescribed. The transport authority will give one month to vary the conditions or to attach some conditions further in the official Gazette. After the expiry of the period of the date of publication in notice gazette the conditions shall be deemed to have been attached and such permit holders shall produce their permit before Transport Authority by which the permit is issued for inspection of such variations.

### **Extension of the area of the validity of permits:**

The Regional Transport Authority can extend the area of the validity of the permit with the state in accordance with general or special resolution passed and recorded by the Transport Authority. The extended area shall be kept with the area of original Transport Authority. The Transport authority which issues a permit to be operative in any other regions shall intimate the fact and send a copy to the Transport Authority in such regions. The original transport authority shall not extend the area of the validity of the contract carriage permit other than the contract carriage permit in respect of motor cabs and maxi cabs unless it attaches the conditions to the permit that if the vehicle visiting the other regions is discharged or released from the contract by the passengers in such regions. It shall not be affixed for hire or rewarded on its return journey for picking any passengers traffic from any place within the region for the purpose of visiting the place in the state.

### **Suspension and Cancellation:**

The holder of any permit may at any time surrender the permit to the Original Transport Authority and the authority can cancel any permit so surrendered. When a regional Transport Authority suspends a permit, it shall be intimated to the Transport Authority by which the permit has been countersigned and to the authority by which the validity of the permit has been extended. In the case of suspension or cancellation of permit of countersignature the authority cancelling shall intimate the fact to which the permit was granted by Regional Transport Authority shall suspends or cancel any permit.

Upon the cancellation of any permit or a counter signature of a permit, the holder shall surrender the permit or counter signature. Upon suspension the holder shall also surrender the certificate of registration and plates bearing the registration mark.

The holder of the permit shall within the fifteen days of the receipt of the suspension or cancellation order intimate to the Transport authority suspending or cancelling the permit or the countersignature was made and to the authority in the region of the validity has been extended the place where the vehicle in respect of which the order is passed will be kept during the period of suspension or cancellation. Such holder shall not remove the vehicle from the place so intimated without the prior permission of the Regional Transport authority in whose region

### **Transfer:**

As per the section 82 of the Gujarat Motor Vehicle rules, The permit holder along with the person he intends to transfer the permit has to apply in prescribe form under Rule 70 to the Transport Authority which the permit was granted showing the reasons for the transfer and along with the fees Prescribed under Rule 71. The transport authority will call both the parties. If the authority is properly satisfied after the enquiry the authority will ask the holder to surrender the permit within seven days of the receipt of the order. The authority will take the further actions as provided in the Gujarat Motor Vehicle rules.

### **Replacement of vehicle:**

An application shall be made to the Transport Authority by which the permit is issued in the prescribed form accompanied by fees prescribed and produce the details as required by the authority. The holder shall produce the registration and vehicle details as mentioned in the Gujarat Motor Vehicle rules. The transport authority which replaces a vehicle on permit operative in any other region shall intimate the fact to the authority by which the permit has been countersigned.

### **Change of the address:**

Any change in the address of the permit holder has to intimate it within fourteen days in the prescribed form under Rule 70 accompanied by the document as specified by the Transport Authority by which the permit or counter signature was granted. On the receipt of the intimation the authority after the verification may enter the address and shall intimate the changed address to the concerned Transport authority. Nothing in this section shall apply where the change of address recorded in the permit is due to temporary change which is not intended to exceed three months in duration.

**Penalty:**

As per the RTI reply, auto Rickshaws plying without valid permit will be charged compounding fees of Rs.200/- under the section 200 of the motor vehicles act 1988. Punishment for operating auto rickshaw without license is Rs.300 .Each for owner and driver

As per Section 192A of The Motor Vehicles Act 1988, using vehicle without permit is punishable. The act says that Whoever drives a motor vehicle or causes or allows a motor vehicle to be used in contravention of the provisions of sub-section (1) of section 66 or in contravention of any condition of a permit relating to the route on which or the area in which or the purpose for which the vehicle may be used, shall be punishable for the first offence with a fine which may extend to five thousand rupees but shall not be less than two thousand rupees and for any subsequent offence with imprisonment which may extend to one year but shall not be less than three months or with fine which may extend to ten thousand rupees but shall not be less than five thousand rupees or with both. Provided that the court may for reasons to be recorded, impose a lesser punishment. Nothing in this section shall apply to the use of a motor vehicle in an emergency for the conveyance of persons suffering from sickness or injury or for the transport of materials for repair or for the transport of food or materials to relieve distress or of medical supplies for a like purpose. Provided the person using the vehicle must report about the same to the Regional Transport Authority within seven days from the date of such use.

As per Section 200 any offence whether committed before or after the commencement of this Act punishable section 192, may either before or after the institution of the prosecution, be compounded by such officers or authorities and for such amount as the State Government may, by notification in the Official Gazette, specify in this behalf. As per subsection (2) of section 200, an offence which has been compounded under sub-section (1) the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of such offence.

**IV Barber Shop:**

Barber Shops are regulated as per the directions of Bombay Provincial Municipal Corporation Act 1949 where as the directions for timings for operation are fixed by the Bombay Shops and establishments Act 1948.

As per the Section 376 of the Bombay Provincial Municipal Corporation Act 1949, No person shall carry out any trade without a license if it is in the opinion of commissioner is dangerous and can create nuisance. Part 1V of the chapter XVII says that barber shops needs license. Commissioner can grant the license and the licensee is supposed to keep the license in the premises upon which it relates. Section 376 gives power to the commissioner to stop the use of any premises if it is a nuisance or dangerous to life health etc in his opinion.

Section 377 says that no person can sell or expose for sale any animal or article without a license from the commissioner. The commissioner can summarily remove any person contravening the section. Section 384 clearly says that no person can use any public place



or any public street for hawking or sale any article without a license and the conditions specified in it. Therefore, it is clear that a barber shops needs license.

### **Procedures:**

The procedures are same as that of dhabas. But it does not have to take food license and have to follow the guidelines for food related establishments. It can be summarised as follows:

For the issue of shop license and food license, the people have to submit the required statements to the Municipal Corporation for the registration of the establishments. The required statements for the registration of the establishment need to be submitted to the health Department.

The applicant has to fill registration form at first to get licence and then submit form with all the documents attached. The eligibility criterion for the registration is the submission of the filled application form with the required documents

As per the Bombay Provincial Municipal Corporation Act 1949 the license shall specify the period, restrictions and conditions, date for renewal etc and it should contain the signature of the commissioner. The licensee is bound to produce the license when the commissioner requires it.

After submitting the application with the supportive documents, the concerned officer will verify the shop premises and if satisfied, the department will give permit for doing business. For the inspection, there are no specific guidelines but inspector's duty is the verification of shop in regard to premises, employers and working hours. The inspection will be on the following grounds:

1. If shop or land is expanded or not?
2. How many workers are working? If it increased or not?
3. Time duration of opening and closing of shop?)

### **Documents Required:**

1. Filled application Forms.
2. All document related to premises which includes the documents of Shop premises, land etc.
3. photocopy of purchase or selling bill
4. Two photographs
5. If shop is on rent , then the agreement of rent or NOC of property holder

### **Entertainment license:**

For taking the entertainment license you have to first take a shop license & food license. Then you have to directly go to the office of the police commissioner. The procedure is that you have to submit the filled form and submit the required fees.

**License Fees:**

The license fees for the shop license and food license is Rs.60/- and Rs.500/- is charged for getting the entertainment license.

**License Renewal:**

The validity for Shop license is 3 years. The renewal period is 30 days and the Renewal Fees is Rs.30/- Food license is Valid up to 3years. Renewal Period is 30 days and Renewal Fees is Rs.30/-Entertainment License is Valid up to 10 years. Renewal Period is 30 days and Renewal Fees is Rs.500/- The renewal procedure is filling up of the application form and no other documents are required.

**Inspection:**

As per the section 337 of the act, it shall be the duty of the commissioner to make provision for the constant and vigilant inspection of any articles exposed or hawked about for sale or deposited in or brought to in any place for the purpose of sale and intended for human consumption, the proof that the article was not intended for human food with the party charged.

The commissioner can seize and carry away any article if any animal or article appears to the commissioner to be diseased or unsound or unwholesome or unfit for human consumption or is not up to the quality represented.

**Prohibition of Hawking:**

As per the Section 12 of Bombay Shops and Establishments Act 1948, no person shall Hawk or sell any goods in or adjacent to a street or a public place before the opening and after the closing hours fixed under sections 10 & 11. Any person contravening the provisions shall be liable to have his goods seized by an Inspector. The goods seized shall be returned to the person from whom they were seized when he deposit Rs.25 as security for his appearance in the Court. If a person fails to make the deposits, the goods seized shall be produced without delay before Magistrate who gives such directions as to their temporary custody as he thinks fit where no prosecution is instituted for the contravention of the provisions of sub-section (1) (which prohibits the hawking) within such period as the Magistrate may fix in this behalf, the Magistrate shall direct their return to the person from whom they were seized. Subject to the provisions of the preceding sub-section, the provisions of the Code of Criminal Procedure, 1898, (V of 1898) shall so far as they may be applicable, apply to the disposal of the goods seized under this section.

**Suspension and Revocation:**

As per the act, any license may at any time can be suspended or revoked by the commissioner if the commissioner is satisfied that the license is secured by the holder through misrepresentation or fraud or if any restriction or condition is infringed or evaded by the person to whom the license has been granted. When any license is suspended or revoked or the period for which the license granted is expired the licensee will be deemed to be without a license until the canceling of the suspension or revoking order or the renewal as the case may be. If the licensee is applying for renewal on the specified date then the applicant shall be entitled to act as if it is renewed.

### **Rules and Regulations from Corporation:**

1. Owner has to specify the ingredients using.
2. Every one has to take license.
3. The place where owner wish to start his business must be verified by shop inspector & Food inspector for cleaning, condition of place etc. If the authorities are satisfied with the premise then the owner will get the license.
4. owner have to pay the required fees
5. Owner must use healthy ingredient while preparing food.
6. Utensil which is used in restaurant must be clean.
7. Owner doesn't interferon in inspection while inspection comes.
8. If owner appoint servant in a dhaba then the owner have to take identity card from corporation with paying the fees Rs.10 to the corporation under the food department.

### **Timings:**

As per the Bombay Shops and establishments Act 1948, no shops other than those dealing with vegetables, fruits, meats etc or any other goods notified by the State Government shall on any day be opened earlier than 7 am and no shops other than those clause b of Subsection (1) (trades dealing with pan bidi, cigarettes, matches and other ancillary articles) can be closed later than 8.30.p.m. Provided any customer waiting must be served during the quarter of an hour immediately following such hour.

No person shall carry on or in adjacent to a street or any public place the sale of any goods before the opening and after the closing hours fixed. Any person contravening the section shall be liable to have his good seized by an Inspector. If a person fails to produce the goods then it shall be produced without delay before a magistrate. No person shall be allowed or required to work in any shop or commercial establishment for more than nine hours in a day and more than forty- eight hours in any week.

### **Punishment**

If person doing a business without license he will get one to three months imprisonment. As per the act any contravention of any provision of the act or ,rule , bye-law, standing order notice etc will liable to a fine of Rs.100 and a further fine which can extend to Rs.20 for every day if no penalty is provided for the offence in any other section of the Act. (Act can be referred in Annexure)

### **V. Cycle Repair Workshop.**

Cycle Repair Workshops are regulated as per the directions of Bombay Provincial Municipal Corporation Act 1949 where as the directions for timings for operation are fixed by the Bombay Shops and establishments Act 1948.

As per the Section376 of the Bombay Provincial Municipal Corporation Act 1949, no person shall carry out any trade without a license if it is in the opinion of commissioner is dangerous and can create nuisance. Section 376 gives power to the commissioner to stop the use of any premises if it is a nuisance or dangerous to life health etc in his opinion.

Section 337 says commissioner have to make provisions for constant and vigilant inspection of animals, vegetables, fruit and any other article exposed or hawked for sale. The act also gives power to the commissioner to inspect and examine any animal or article used for preparing or manufacturing or containing the same. The commissioner can seize the animal or article which has appeared as unfit for human consumption.

Section 377 says that no person can sell or expose for sale any animal or article without a license from the commissioner. The commissioner can summarily remove any person contravening the section. Section 384 clearly says that no person can use any public place or any public street for hawking or sale any article without a license and the conditions specified in it. Therefore, it is clear that a cycle repair workshops needs license.

The procedures are same as barber shops. They are as follows:

### **Licensing Procedures:**

For the issue of shop license and food license, the people have to submit the required statements to the Municipal Corporation for the registration of the establishments. The required statements for the registration of the establishment need to be submitted to the health Department.

The applicant has to fill registration form at first to get licence and then submit form with all the documents attached. The eligibility criterion for the registration is the submission of the filled application form with the required documents

As per the Bombay Provincial Municipal Corporation Act 1949 the license shall specify the period, restrictions and conditions, date for renewal etc and it should contain the signature of the commissioner. The licensee is bound to produce the license when the commissioner requires it.

After submitting the application with the supportive documents, the concerned officer will verify the shop premises and if satisfied, the department will give permit for doing business. For the inspection, there are no specific guidelines but inspector's duty is the verification of shop in regard to premises, employers and working hours. The inspection will be on the following grounds:

1. If shop or land is expanded or not?
2. How many workers are working? If it increased or not?
3. Time duration of opening and closing of shop?)

### **Documents Required:**

1. Filled application Forms.
2. All document related to premises which includes the documents of Shop premises, land etc.
3. photocopy of purchase or selling bill
4. Two photographs
5. If shop is on rent , then the agreement of rent or NOC of property holder

**Entertainment license:**

For taking the entertainment license you have to first take a shop license & food license. Then you have to directly go to the office of the police commissioner. The procedure is that you have to submit the filled form and submit the required fees.

**License Fees:**

The license fees for the shop license and food license is Rs.60/- and Rs.500/- is charged for getting the entertainment license.

**License Renewal:**

The validity for Shop license is 3 years. The renewal period is 30 days and the Renewal Fees is Rs.30/- Food license is Valid up to 3years. Renewal Period is 30 days and Renewal Fees is Rs.30/-Entertainment License is Valid up to 10 years. Renewal Period is 30 days and Renewal Fees is Rs.500/- The renewal procedure is filling up of the application form and no other documents are required.

**Inspection:**

As per the section 337 of the act, it shall be the duty of the commissioner to make provision for the constant and vigilant inspection of any articles exposed or hawked about for sale or deposited in or brought to in any place for the purpose of sale and intended for human consumption, the proof that the article was not intended for human food with the party charged.

The commissioner can seize and carry away any article if any animal or article appears to the commissioner to be diseased or unsound or unwholesome or unfit for human consumption or is not up to the quality represented.

**Prohibition of Hawking:**

As per the Section 12 of Bombay Shops and Establishments Act 1948, no person shall Hawk or sell any goods in or adjacent to a street or a public place before the opening and after the closing hours fixed under sections 10 & 11. Any person contravening the provisions shall be liable to have his goods seized by an Inspector. The goods seized shall be returned to the person from whom they were seized when he deposit Rs. 25 as security for his appearance in the Court. If a person fails to make the deposits, the goods seized shall be produced without delay before Magistrate who gives such directions as to their temporary custody as he thinks fit where no prosecution is instituted for the contravention of the provisions of sub-section (1) (which prohibits the hawking) within such period as the Magistrate may fix in this behalf, the Magistrate shall direct their return to the person from whom they were seized. Subject to the provisions of the preceding sub-section, the provisions of the Code of Criminal Procedure, 1898, (V of 1898) shall so far as they may be applicable, apply to the disposal of the goods seized under this section.

**Suspension and Revocation:**

As per the act, any license may at any time can be suspended or revoked by the commissioner if the commissioner is satisfied that the license is secured by the holder



through misrepresentation or fraud or if any restriction or condition is infringed or evaded by the person to whom the license has been granted. When any license is suspended or revoked or the period for which the license granted is expired the licensee will be deemed to be without a license until the canceling of the suspension or revoking order or the renewal as the case may be. If the licensee is applying for renewal on the specified date then the applicant shall be entitled to act as if it is renewed.

### **Rules and Regulations from Corporation:**

1. Owner has to specify the ingredients using.
2. Every one has to take license.
3. The place where owner wish to start his business must be verified by shop inspector & Food inspector for cleaning, condition of place etc. If the authorities are satisfied with the premise then the owner will get the license.
4. owner have to pay the required fees
5. Owner must use healthy ingredient while preparing food.
6. Utensil which is used in restaurant must be clean.
7. Owner doesn't interferon in inspection while inspection comes.
8. If owner appoint servant in a dhaba then the owner have to take identity card from corporation with paying the fees Rs.10 to the corporation under the food department.

### **Timings:**

As per the Bombay Shops and establishments Act 1948, no shops other than those dealing with vegetables, fruits, meats etc or any other goods notified by the State Government shall on any day be opened earlier than 7 am and no shops other than those clause b of Subsection (1) (trades dealing with pan bidi, cigarettes, matches and other ancillary articles) can be closed later than 8.30.p.m.. Provided any customer waiting must be served during the quarter of an hour immediately following such hour.

No person shall carry on or in adjacent to a street or any public place the sale of any goods before the opening and after the closing hours fixed. Any person contravening the section shall be liable to have his good seized by an Inspector. If a person fails to produce the goods then it shall be produced without delay before a magistrate. No person shall be allowed or required to work in any shop or commercial establishment for more than nine hours in a day and more than forty- eight hours in any week.

### **Punishment**

If person doing a business without license he will get one to three months imprisonment. As per the act any contravention of any provision of the act or ,rule , bye-law, standing order notice etc will liable to a fine of Rs.100 and a further fine which can extend to Rs.20 for every day if no penalty is provided for the offence in any other section of the Act. (Act can be referred in Annexure)

## FINDINGS FROM THE STUDY

### General Findings:

1. Trades are regulated as per the directions of Bombay Provincial Municipal Corporation Act 1949 where as the directions for timings for operation are fixed by the Bombay Shops and establishments Act 1948
2. As per the Section 376 of the Bombay Provincial Municipal Corporation Act 1949, No person shall carry out any trade without a license if it is in the opinion of commissioner is dangerous and can create nuisance
3. Commissioner can grant the license and the licensee is supposed to keep the license in the premises upon which it relates. Section 376 gives power to the commissioner to stop the use of any premises if it is a nuisance or dangerous to life health etc in his opinion.
4. Every application for a license shall address the commissioner. The acceptance by or on behalf of the commissioner of the fees of a license shall not in itself entitle the person paying the fees to the license or permission. The BPMC act entitles the commissioner the power for inspection. However, it cannot be made between sunrise and sunset except in the specially described situations
5. Section 377 says that no person can sell or expose for sale any animal or article without a license from the commissioner. The commissioner can summarily remove any person contravening the section
6. Section 384 clearly says that no person can use any public place or any public street for hawking or sale any article without a license and the conditions specified in it
7. As per the section 337 of the act, it shall be the duty of the commissioner to make provision for the constant and vigilant inspection on any articles exposed or hawked about for sale or deposited in or brought to in any place for the purpose of sale and intended for human consumption. The commissioner can seize and carry away any article if any animal or article appears to the commissioner to be diseased, unsound, unwholesome, or unfit for human consumption or is not up to the quality represented
8. As per the act, any license may at any time can be suspended or revoked by the commissioner if the commissioner is satisfied that the license is secured by the holder through misrepresentation or fraud or if any restriction or condition is infringed or evaded by the person to whom the license has been granted
9. When any license is suspended or revoked or the period for which the license granted is expired the licensee will be deemed to be without a license until the canceling of the suspension or revoking order or the renewal as the case may be. If the licensee is applying for renewal on the specified date then the applicant shall be entitled to act as if it is renewed
10. As per the Bombay shops and Establishment Act 1948, no eating-house shall be open earlier than 5a.m and closed later than 12 at midnight for service. An employee can start his work from 4.30 a.m. However, cannot work after 00.30 a.m. No sale is allowed before and after the opening and closing hours. An employee in an eating-house cannot be required or allowed to work more than nine hours in a day and 48 hours in a week
11. As per the Bombay Provincial Municipal Corporation Act 1949 the license shall specify the period, restrictions and conditions, date for renewal etc and it should contain the signature of the commissioner. The licensee is bound to produce the license when it is required by the commissioner

12. After submitting the application with the supportive documents, the concerned officer will verify the shop premises and if satisfied, the department will give permit for doing business. For the inspection, there are no specific guidelines but inspector's duty is the verification of shop in regard to premises, employers and working hours

### **Trade wise Findings:**

#### **Dhaba:**

1. Eating Houses are the Place where the foods and drinks is served to the public. Bombay Shops and Establishment Act defines eating house as Any premises in which is carried on wholly or principally the business of the supply meals or refreshments to the public or a class of the public for consumption on the premises. In a dhaba there is the need of a well-furnished kitchen, proper setting arrangement, refreshment room
2. Dhaba's are regulated by Rajkot Municipal Corporation. For running a dhaba, the owner has to take Shop license (Bombay Shops and establishments Act), Food license and entertainment license. The Shop license & Food license are issued by Rajkot Municipal Corporation. Entertainment license is issued by police commissioner
3. For the issue of shop license and food license the person have to submit the required statements for the registration of the establishment to the health department
4. For taking the entertainment license one have to first take a shop license & food license. Then one has to directly go to the office of the police commissioner. The procedure is that you have to submit the filled form and submit the required fees
5. As per the Bombay Provincial Municipal Corporation Act 1949 the license shall specify the period, restrictions and conditions, date for renewal etc and it should contain the signature of the commissioner. The licensee is bound to produce the license when the commissioner requires it
6. The license fees for the shop license and food license is Rs.60/- Rs.500/- is charged for getting the entertainment license. It is really difficult to justify.
7. The validity for Shop license is 3 years. The renewal period is 30 days and the Renewal Fess is Rs.30. Food license is Valid up to 3years. Renewal Period is 30 days and Renewal Fees is Rs.30. Entertainment License is Valid up to 10 years. Renewal Period is 30 days and Renewal Fees is Rs.500.
8. Document related to premises which includes the documents of Shop premises, land etc., photocopy of purchase or selling bill, Two photographs and If shop is on rent , then the agreement of rent or NOC of property holder is also required for getting the food and shop license.
9. If person doing a business without license he will get one to three months imprisonment. As per the act any contravention of any provision of the act or ,rule , bye-law, standing order notice etc will liable to a fine of Rs.100 and a further fine which can extend to Rs.20 for every day if no penalty is provided for the offence in any other section of the Act.

### **VEGETABLE SHOP:**

1. In Rajkot Vegetable Vendors are regulated by Rajkot Municipal Corporation .One have to take Shop license (Bombay Shops and establishments Act), Food license( prevention of Food Adulteration Act ) and entertainment license. The Shop license & Food license are issued by Rajkot Municipal Corporation. Entertainment license is issued by police commissioner
2. The procedures are same as that of dhabas. But it does not have to follow the guidelines for food related establishments
3. As per the Bombay Shops and establishments Act 1948, no vegetable shops t shall open any day be opened earlier than 5 am and closed later than 8.30.p.m. Provided that any customer waiting must be served during the quarter of an hour immediately following such hour
4. No person shall carry on or in adjacent to a street or any public place the sale of any goods before the opening and after the closing hours fixed. Any person contravening the section shall be liable to have his good seized by an Inspector. If a person fails to produce the goods then it shall be produced without delay before a magistrate. No person shall be allowed or required to work in any shop or commercial establishment for more than nine hours in a day and more than forty-eight hours in any week

### **AUTO RICKSHAW:**

1. Auto Rickshaws are regulated by the RTO (Regional Transport Office). The permits are issued by the Regional Transport office of Rajkot and are issued for the whole are of Rajkot District
2. As per RTI reply, one needs a permit to ply regularly in the district for offering Auto Rickshaw on hire or rewards permit in the form PCOP which is valid for five years and for temporary purposes (visit places outside the region or state) temporary permits are issued
3. For getting a city permit, One has to apply in the form "PCOPA" under section 73 and 74 of the Motor Vehicles Act 1988 to the Regional Transport Authority along with the fees of Rs.350/-. PCOP is basically the license of city permit given by RTO (Regional Transport Office). One has to contact Regional transport Office, Near Marketing Yard, Rajkot for permits
4. For city permit (PCOP) necessary document are Court stamp Rs.10 Rupee, Driving licence, Fitness certificate, Insurance - vehicle insurance, pollution under control certificate, Meter No / Bill and Permit fee
5. The Fees for city permit is Rs.350 as per Motor vehicle rules
6. There is no time limit for the processing of permit as per the law. But in citizen's charter as mentioned in the RTI reply the time is three days. The action prescribes in the case of the delay from the applicant in the case of the renewal of permit is the fine of Rs.300/- whereas the punishment for the delay of government is punishable as per the service and conduct rules of 1971
7. Renewal procedure is the submission of the filled renewal form (PCSR) to RTO department before 15 days of the expiry date of permit. In case of delay Rs.300/- as compounding fees is to be remitted along with the renewal fees
8. .As per RTI reply, the permit is valid up to five years
9. The permit cannot be driven in any public place except by a permit holder or a driver approved by the Regional Transport Officer or his assistant. The driver is supposed to carry the permit with him and shall produce it when it is demanded

10. The number of person/ weight of kilograms carrying in the vehicle cannot exceed the weight specified in the permit
11. No advertisement can be exhibited in the vehicle
12. The holder of a permit shall maintain a register showing the list of passengers travelling in the vehicle in each and every trip in the particular form and shall produce it as demanded by the checking officers
13. The original transport authority shall not extend the area of the validity of the contract carriage permit other than the contract carriage permit in respect of motor cabs and maxi cabs unless it attaches the conditions to the permit that the vehicle visiting the other regions is discharged or released from the contract by the passengers in such regions . It shall not be affixed for hire or rewarded on its return journey for picking any passengers traffic from any place within the region for the purpose of visiting the place in the state
14. Any change in the address of the permit holder has to intimate it within fourteen days in the prescribed form under Rule 70 accompanied by the document as specified by the Transport Authority by which the permit or counter signature was granted. On the receipt of the intimation the authority after the verification may enter the address and shall intimate the changed address to the concerned Transport authority. Nothing in this section shall apply where the change of address recorded in the permit is due to temporary change which is not intended to exceed three months in duration
15. As per the RTI reply, auto Rickshaws plying without valid permit will be charged compounding fees of Rs.200/- under the section 200 of the motor vehicles act 1988. Punishment for operating auto rickshaw without license is Rs.300 .Each for owner and driver
16. As per Section 192A of The Motor Vehicles Act 1988, using vehicle without permit is punishable
17. As per the Motor Vehicles Act, driving a motor vehicle or causing or allowing a motor vehicle in contravention of the provisions of sub-section (1) of section 66 or in contravention of any condition of a permit relating to the route on which or the area in which or the purpose for which the vehicle may be used, shall be punishable for the first offence with a fine which may extend to five thousand rupees but shall not be less than two thousand rupees and for any subsequent offence with imprisonment which may extend to one year but shall not be less than three months or with fine which may extend to ten thousand rupees but shall not be less than five thousand rupees or with both

#### **Barber Shop:**

1. In Rajkot barber shops are regulated by Rajkot Municipal Corporation .One have to take Shop license (Bombay Shops and establishments Act) and entertainment license. The Shop license is issued by Rajkot Municipal Corporation. Entertainment license is issued by police commissioner
2. The procedures are same as that of dhabas. But it does not have to take the food license
3. As per the Bombay Shops and establishments Act 1948, no shops other than those dealing with vegetables, fruits, meats etc or any other goods notified by the State Government shall on any day be opened earlier than 7 am and closed later than 8.30.p.m.This is applicable to barber shop also. Provided that any customer waiting must be served during the quarter of an hour immediately following such hour



**Cycle Repair Workshop.**

1. The procedures are same as Barber shop

**Findings in regard to the difficulties to access Information:**

1. The first response from the Police Commissioner Office was that if the intern want any information, they can go directly and no need to file RTI application. The person who was telling these things was the same person whom they met previously and did not gave response properly earlier. This time the attitude of person has changed when the interns used law (RTI)
2. The officer in the commissioner's office demanded that charges for per paper both side printing is Rs.2 per page. The officer demanded that the person who prepared and collected the information as per his designation per 1-hour charges also have to be paid by the intern