

ITEM NO. 01 (E-1)**1. Name of the Subject / Project:**

Revision of Licence Fee regarding regulation of various trade licenses in NDMC area.

2. Name of the Department:

Health Department

3. Brief History of the subject / project:

The NDMC Act, 1994 has been enacted by the Parliament and is effective from 25th May, 1994. Regulation and control of market, trades and occupations is an obligatory functions of the Council. To regulate and control the trade and occupation, the Chairperson, NDMC is expected to issue a licence prescribing conditions of the licence, duration of the licence and fee to be paid by the licensee to whom their licence is to be issued. The terms and conditions for the licence and scale of licence fee had not so far been finalized. The terms and conditions have now been finalized by the Health Department but the LF to be charged is yet to be sanctioned by the Council. Pending sanction of the LF, the Health Department is not in a position to issue licences under the NDMC Act, 1994 and is continuing with the PFA Act and the PM Act. It has thus become necessary to issue the licences under the NDMC Act, 1994 after sanction of the Council for the LF to be charged for such licences.

4. Detailed proposal on the subject / project:

Chapter XVIII of the NDMC Act deals with Markets, Trades and Occupation. Section 316 to 325 relate to "maintenance and regulation of markets". Section 326 to 333 relate to "trades and occupations".

Section 325 of the Act

- 4.1 Section 325 provides for butcher's, fish monger's and poulter's licence. No person shall without or otherwise than in conformity with a licence from the Chairperson carry on the trade of a butcher, fish monger, poulterer or importer of flesh intended for human consumption or use any place for the sale of flesh, fish or poultry intended for human consumption.

Provided that no licence shall be required for any place used for the sale or storage for sale of preserved flesh or fish contained in air-tight or hermetically sealed receptacles.

- 4.2 Thus u/s 325 of the Act a licence is necessary for use of any place for the sale of flesh, fish or poultry intended for human consumption.

Section 326 of the Act

- 4.3 Section 326 provides that no person shall without the previous permission in writing of the Chairperson, establish in any premises, or materially alter, enlarge or extend any factory, workshop or trade premises in which it is intended to employ steam, electricity, water or other mechanical power.

- 4.4 The Chairperson may refuse to give such permission, if he is of the opinion that the establishment, alteration, enlargement or extension of such factory, workshop or trade premises, in the proposed position would be objectionable by reason of the density of the population in the neighbourhood thereof, or would be a nuisance to the inhabitants of the neighbourhood.

Section 327 of the Act

- 4.5 Section 327 provides that no person shall use or permit to be used any premises for any of the following purposes without or otherwise than in conformity with the terms of a licence granted by the Chairperson in this behalf namely: -

- a) any of the purposes specified in Part-I of the Ninth Schedule ;
- b) any purpose which is, in the opinion of the Chairperson dangerous to life, health or property or likely to create a nuisance ;
- c) keeping horses, cattle or other quadruped animals or birds for transportation, sale or hire or for sale of the produce thereof; or
- d) storing any of the articles specified in Part-II of the Ninth Schedule except for domestic use of any of those articles.

Licence Fee

- 4.6 Chapter XVIII provides for the issue of licence as above in respect of provision of Section 325, 326, 327, 330, 331 and 332. Chapter XX provides for the powers,

procedure, offences and penalties and Section 339 deals with licence and written permissions. The licence to be issued has to contain the following: -

- (i) the date of the grant of thereof ;
- (ii) the purpose and the period (if any) for which it is granted ;
- (iii) restrictions or conditions, if any, subject to which it is granted
- (iv) the name and address of the person to whom it is granted, and
- (v) the fee, if any, paid for the licence or written permission.

4.7 Licenses are normally issued / renewed in April each year on financial basis. Restrictions & conditions of issue form part of the licence.

4.8 Sub-section 2 of Section 339 of the Act provides that except as otherwise provided in this Act or any bye-law made there under, for every such licence or written permission a fee may be charged at such rate as may from time to time be fixed by the Chairperson with the sanction of the Council and such fee shall be payable by the person to whom the licence or written permission is granted.

4.9 The Act provides that the fee to be charged for every licence or written permission has to be charged at such rate as made from time to time and fixed by the Chairperson with the sanction of the Council and such fee shall be payable to the Chairperson by the person to whom the licence or written permission is granted.

4.10 The fee for issue or permission u/s 327 shall not exceed Rs. 500/-. No such fee has been provided u/s 325, 326, 330, 331 or 332. The fee is to be fixed by the Chairperson with the sanction of the Council and such fee shall be payable by the person to whom the licence or written permission is granted.

Fee for licence under Section 325 of the Act

4.11 In respect of Section 325 of the Act for a licence for use of any premises for the sale of flesh, fish etc. intended for human consumption, the fee may be sanctioned by the Council at maximum of Rs. 500/- a year.

Fee for licence under Section 327 of the Act

4.12 In respect of permissions to be granted and the licence to be issued u/s 327, the Act provides that the fee shall not exceed Rs. 500/-. As such fee for Section 327 maybe prescribed at a maximum of Rs. 500/-.

Fee for licence under Section 330 of the Act

4.13 The licence for hawking is used u/s 330. Case of hawkers are being considered in the Vending Committee and the licence fee from the hawkers who are covered by the directions of the Supreme Court in the case of Sudhir Madan V/s MCD and others shall be fixed as per the scheme framed by the Council under the direction of the Supreme Court.

4.14 As regards the annual licence fee for the hawking on cycles etc. licence fee may be sanctioned at the maximum, suggested hereunder: -

(i)	hawking on cycle for un-cut fruits & vegetable etc	Rs. 1000/-
(ii)	for each of the water trolley	Rs. 1000/-
(iii)	for sale of ice-cream on the trolley	Rs. 1000/- (per trolley)
(iv)	for chef cart	Rs. 5000/-
(v)	vengis	Rs. 1000/-

Section 331

4.15 Eating Houses – the licence is to be issued for the items covered by Section 331. The annual licence fee may be sanctioned at a maximum as under: -

	<u>Maximum</u>
(i) Stall / Kiosks (only where permission of Director of Estate available)	Rs. 500/-
(ii) DMS/Mother Dairy Booth	Rs. 250/-
(iii) Lodging House (upto 20 Bed)	Rs. 2000/-
(iv) Hotel/Guest House (20 to 50 Bed)	Rs. 5000/-
(v) Boarding House (50 to 100 Bed)	Rs. 10,000/-
	Rs. 20,000/-
	Rs. 50,000/-
(vi) Tea Shop	Rs. 500/-
(vii) Coffee Shop (upto seat of 50)	Rs. 5000/-
(viii) Café (upto seat of 50)	Rs. 5000/-
(ix) Restaurant (More than 50 seats)	Rs. 10,000/-
(x) Sweet meat shop	Rs. 1000/-
(xi) Office canteens	Rs. 1000/-
(xii) Any other licence to be issued under Section 331 of the Act and not covered by the above list	Rs. 5000/-

Licence for each restaurant / café / coffee shop etc. has to be taken separately and shall not be included in licence of Hotel etc.

Licence under section 332 of the Act

- 4.16 The licence fee u/s 332 for Cinema House, Circus etc. being used by the public may be sanctioned as under: -

	<u>Maximum</u>
(i) Theatre	Rs. 1000/-
(ii) Circus	Rs. 1000/-
(iii) Cinema House	Rs. 5000/-
(iv) Dancing Hall	Rs. 5000/- (in hotels)
(v) Clubs	Rs. 5000/-
(vi) Gyms	Rs. 1000/-

- 4.17 The above are the maximum rates for which sanction from the Council is required. The fee shall be fixed within the rate being sanctioned by the Council for a financial year or part thereof. The licences shall be issued in accordance with the provisions of the Act. Conditions for user of the premises or running of the licensable trade, eating house etc. shall form part of licence. In addition to the licence fee, as suggested above, a processing fee and administrative charges for processing the applications of licence or renewal shall be charged separately.

- 4.18 Premises operating without a licence shall be sealed.

5. Financial implications of the proposed project / subject:

There is no financial implications rather NDMC will earn a little more revenue to curb its expenditure on regulation of trades.

6. Implementation schedule with timeliness for such stage including internal proceeding:

It will be implemented as soon as the Council approves the proposal.

7. Comments of the Finance Department on the subject:

Not required

8. Comments of the Department on comments of Finance Department:

NIL

9. Details of previous Council Resolution, existing law of Parliament and Assembly on the subject:

No resolution

10. Comments of the Law Department on the subject:

The proposal has been made in consultation with Law Department.

11. Comments of the Department on the comments of the Law Department:

No comments

12. Recommendations:

It is proposed that the proposal for increase in license fee for regulation of trades in NDMC may kindly be approved in the first instance. The case is laid for the council for the consideration and approval.

13. Draft Resolution:

Resolved by the Council that the proposal of increase in license fee for regulation of various trade in NDMC is approved.

COUNCIL 'S DECISION

Resolved by the Council that the proposal of increase in license fee for regulation of various trade in NDMC is approved, subject to the condition that the proposed License Fee in respect of hawking on cycle for un-cut fruits & vegetable etc., water trolley, and vengis shall be kept in abeyance and continue to be charged as per previously existing rates.

(VIKRAM DEV DUTT)
SECRETARY

(PARIMAL RAI)
CHAIRPERSON