

Renewal for such period shall be done first, followed by action on such application for trade change, partnership etc. during that period.

- (e) *No application shall be considered under this regularization for the past events after 60 days from 16th August, 2016.*
- (f) *No application under this policy decision shall be considered in cases where the NDMC has already terminated/cancelled the license deed.*
- (g) *This policy may be used for resolving court matters."*

The department has so far renewed the following cases and the marketwise details are as under:

Sl. No.	Name of Market	Date of Notice for renewal	Date of mass renewal	No. of cases renewed
1	Janpath Market	18.8.2016	26.8.2016	21
2	Palika Bazar	18.8.2016 & 30.8.2016	01.9.2016	55
3	Kidwai Nagar & Nauroji Nagar	05.10.2016	14.10.2016	32
4	Basurkar Market Netaji Nagar Mkt Laxmibai Nagar Nauroji Nagar	27.10.2016	11.11.2016	45
5	Palika Bazar Laxmibai Nagar	28.11.2016	09.12.2016	42
Total				195

These cases were renewed as per the request pending on the files and as per the requests received from various Market Associations. The 60 days period for applying for renewal and other cases has expired on 16.10.2016. So far Estate-I Department has renewed 195 nos. of cases as mentioned above and many people due to their age factor, family conditions etc. might not be in a position to apply. Besides this, Estate-I Department is not in a position to renew the cases which were pending for more than 10 years and in some cases are pending for more than 20 years also. It is a dynamic process and at present mass renewal programme which is facilitating the speedy renewals, cannot cater the pending cases at one go for various reasons which includes shortage of staff, examination of files etc. Given the limitations, Estate-I Department has done a tremendous job transparently and completing 195 nos. of renewals as mentioned above for which work done by Dy. Director(Estate-I) Sh. Tanvir Ahmad be appreciated.

In view of the reasons mentioned above, the Council may consider the proposal for extending the time lime for applying for renewal of licences by various licensees till 31.03.2017.

4. Recommendations:


Keeping in view the hardships of the licensees, constraints of the department and voluminous records involved in each case, pending cases of more than one 10 to 20 years and non-renewal of cases for the last so many years, it is advisable that time limit for applying for renewal of licenses be extended till 31.03.2017.

Or

Estate Department shall issue a notice of 15 days to the occupant to complete the process for renewal failing which, the process for eviction shall be initiated. The concerned Dealing Assistant is personally liable for issuing such notice within 30 days to all premises under his charge.

COUNCIL'S DECISION

Keeping in view the hardships of the licensees, constraints of the concerned department and voluminous records involved in each case, pending cases of more than 10 to 20 years and non-renewal of cases for the last so many years, the Council resolved that time limit for applying for renewal of licenses be extended for another six months from today, i.e. till 16th July, 2017.


Secretary
New Delhi Municipal Council
Valika Kendra, New Delhi

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**ESTATE-I DEPARTMENT
NEW DELHI MUNICIPAL COUNCIL
PALIKA KENDRA : NEW DELHI**

No. D-1043/SO(Estate-I)/2016

Dated: 16.8.2016

Circular

Subject: Policy on licences of NDMC's shops, kiosks, pan tharas and issues related thereto.

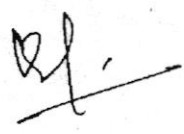
The need for laying down a simple and transparent policy on grant and renewal of licence, transfer of licence, change of trade etc. and other issues in respect of shops kiosks, pan tharas have been under consideration of the New Delhi Municipal Council (NDMC) for some time.

- 2.1 Accordingly a Sub-committee under section 9 of the NDMC Act, 1994 was constituted by the Council vide its Resolution No. 18(L-08) dated 15.12.2015 for the purpose with (i) Chairman, NDMC, (ii) Vice Chairman, NDMC (iii) Hon'ble Member of Parliament (Lok Sabha-New Delhi constituency); and (iv) three nominated Members of the Council, as Members to examine all issues involving general conditions for licensees, change of trade, renewal of licence, transfer on partnership/legal heir basis, clubbing of units, loft & mezzanine floor, damages on cancellation non-renewal of licence, etc. in the background of past and extant practices as well as resolutions of the Council on the subject. Secretary, NDMC was convener and Financial Advisor, NDMC was a co-opted Member of the Sub-Committee. A copy of the order on the constitution of the said Sub-Committee is at **Annexure-I**.
- 2.2 During the course of deliberations, the Sub-Committee consulted market associations of NDMC markets well as Estate Department of NDMC dealing with the subject matter, and examined their comments in the light of past and present policies and unresolved issues pending since long with aim of simplifying and streamlining the processes and procedures for management of NDMC shops, kiosks and Pan Tharas and their licensing. After carefully examining all aspects of unresolved issues of

licensing of shops, Kiosks and Pan Tharas and other related issues thereto mentioned in the foregoing para, the Sub-Committee submitted its report containing recommendations to the Council for consideration. After careful consideration and approval of recommendations of the Sub-Committee, was approved by the Council, the following policy takes effect as decided/approved by the Council in its meeting held on 27.6.2016 vide Resolution No. 31(L-08) with immediate effect.

3. **Renewal of licence:**

- (i) All case pending before date of issuing the Circular i.e. 16.8.2016 shall be governed as per the Council's resolutions applicable as on that date.
- (ii) Wherein license deed have not been executed since 1960-70's, in such cases the renewal can be considered in respect of cases where licence deed was not executed provided the occupant is legal heir or licence was transferred to him on legal heir basis. In case, the occupant is other than self / legal heir, the Director Estate shall get the premises vacated under the provisions of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (**PP Act, 1971**).
- (iii) From date of issuing the Circular i.e. 16.8.2016 onwards all the markets shall be categorized into the following two categories viz. Category 'A' and category 'B'. List of category 'A' units is at **Annexure II**. All markets other than category 'A' units will be treated as category 'B' units. All kiosks / stalls (any commercial premises on the right of way is a kiosk/stall) will be treated as category 'C' units. All pan-tharas shall be treated as category 'D' units.
- (iv) Units under Category 'A', 'B', 'C' and 'D' shall be renewed for a period of ten years at a time.
- (v) Licence fee will be enhanced by 10% biennially for category 'A' units, 9% biennially for 'B' category units, 8% biennially for category 'C' units and 5% biennially for category 'D' unit. Existing Estate Policy covering the enhancements will continue in case of commercial spaces, office spaces, residential cum office flats, office restaurants, hotels, cinemas, licensable trade premises and all other premises not covered under category A, B, C, D.
- (vi) A four-member Standing Committee consisting of Secretary, Financial Advisor, Director Estate and one member amongst the nominated members of the Council mentioned in section 4(1)(d) of the NDMC Act 1994 (to be nominated by the Council) is to be constituted to recommend to the Council freezing any increase/enhancement in licence fee of a premises/market with effect from such date as may be specified and for a certain period of time,



considering the open market conditions. Such Committee may recommend to the Council de-freezing w.r.t. any premises/market any time before the end of freezing period. The Council shall take a decision on the recommendations of the Committee for freezing/de-freezing any increase/enhancement in licence fee.

- (vii) Any unit getting vacated on or after 27th July, 2016 shall be allotted through e-auction only. Reserve price shall be provided by an independent professional agency, which shall be empanelled by the NDMC from time-to-time through open tender process.

- (viii) List of all vacant category A, B, C, D premises, alongwith reserve price by the empanelled agency, shall be prepared on quarterly basis by the Estate Department. Such premises may be e-auctioned on a price not less than the reserve price. The Chairperson may allot such premises to successful applicant identified through e-auction process.

- (ix) Cases, wherein the licence holder has died and has nominated any other person or organization for using whole of such premises only for purposes such as literature, science, art and social service, without any commercial usage, in such cases the application for renewal of licence, alongwith an undertaking by the applicant to not use such premises for any commercial purpose, may be considered on case to case basis. If at any time, it is found that such premises is used for commercial usage, then licence of such premises will stand terminated after giving a notice of 21 days to such licence holder by Director (Estate).

- (x) Time waiver amnesty to file the applications for renewal, if not filed so far, is provided to allow applicants for filing applications within a period of 60 days from the date of issuing the Circular i.e. 16.8.2016.

- (xi) With respect to waiver on penal interest, the following rebate is provided on the penal interest to the occupants of such premises on full payment of all arrears:
 - (a) In case of markets categorized under category 'A' and 'B':
 - (I) Occupant, who pay all arrears within 15 days from the date of issue of demand will get 15% rebate in penal interest.
 - (II) Occupant, who pay all arrears within 30 days from the date issue of demand will get 10% rebate in penal interest.



- (b) In case of category 'C' premises, 50% waiver on penal interest may be given to the occupants who pay all arrear within 30 days from the date of issue of demand.
- (c) In case of category 'D' premises, 100% waiver on penal interest may be given to the occupants who pay all arrear within 30 days from the date of issue of demand.

4. **Change of Trade:**

- (i) All pending cases shall be dealt as per this decision of the Council:
- (ii) No trade in the negative list shall be permitted. Negative list for each market to be notified within one month from the date of this circular viz. 16th August 2016.
- (iii) For (a) change from 'licence trade' to 'non-licence trade which is not in the negative list', or (b) change from 'non-licence trade' to 'non-licence trade which is not in the negative list', or (c) grouping of non-licence trades which are not in the negative list, permission from NDMC will not be required, and an intimation, without any fee / increase in licence fee, to the Director Estate, NDMC shall be sufficient for the same.
- (iv) Change of trade from (a) 'non-licence Trade' to 'Licence Trade'; or (b) 'licence trade' to 'licence trade', may be allowed subject to the following conditions:
 - (a) No Objection Certificate (NOC) shall be obtained from Health, Water, Sewerage, and Electricity Departments. If a decision on application for such NOC is not taken and uploaded on the website of the NDMC within a period of 30 days from the date of receipt of such application in the NDMC, such application for NOC will be deemed approved. In case of deemed approval of such application, Head of the Department will be held responsible for such delay or any eventuality arising out of such deemed approval;
 - (b) Prior permission of NDMC shall be obtained; and
 - (c) Enhancement in the licence fee by 50%.
- (v) Where licence/permission/NOC is required under any prevailing statute, the same may permitted only after licence/permission/NOC is obtained and additionally NDMC's permission is taken on availability of space and safety factors.
- (vi) Licence fee once increased shall not be decreased on account of reversion to the trade of pre-increased licence fee.



5. **Transfer of licence on legal heir basis:**

- (i) All cases before the date of issuing this circular i.e. 16.8.2016 shall be governed as per the Council's resolutions applicable as on that date.
- (ii) Legal heir(s) shall mean son; daughter; widow; mother; son of a predeceased son; son of a predeceased daughter; daughter of a predeceased daughter; widow of a predeceased son; son of predeceased son of a predeceased son; daughter of a predeceased, son of predeceased son; son of a predeceased daughter of a predeceased daughter; daughter of a predeceased daughter of a predeceased daughter; daughter of a predeceased son of a predeceased daughter; daughter of a predeceased daughter of a predeceased son, of the person whose name is mentioned in the latest licence deed.
- (iii) NDMC is not obliged to permit continuation of allotment after death of the allottee. The licence stands cancelled on the death of the licensee. In continuation of past practices, the Council may continue to give a licence to the legal heirs on humanitarian grounds, without enhancement in licence fee, for period not exceeding remaining period of the licence held by the deceased, subject to the condition that all other legal heirs submit a NOC in favour of the legal heir(s) whose name is to be added in the licence.
- (iv) If there is dispute in the family, unless they settle the dispute amicably, the licence cannot continue and the premises has to be got evicted. In respect of cases pending in the department for transfer on legal heirs basis, wherever there are disputes, the legal heirs be given a change to settle the dispute and inform accordingly to the Director Estate NDMC in writing within 90 days from the date of issuing this circular i.e. 16.8.2016.
- (v) If dispute is not settled, the licence will be automatically cancelled, and Director Estate shall initiate the necessary action in terms of PP Act, 1971.
- (vi) Partnership with legal heir(s) will be allowed with prior approval of NDMC, without enhancement of license fee, subject to the condition that all other legal heirs submit a NOC in favour of the legal heir(s) whose name is to be added in the licence.
- (i) Deletion of name of legal heir is allowed without any cost with prior approval of NDMC, subject to NOC from all other holders of that licence.

6. **Transfer of licence on Partnership basis:**

- (i) All cases before the date of issuing this circular i.e. 16.8.2016 shall be governed as per the Council's resolutions application as on that date.



- (ii) **For prospective cases of transfer:** Prior permission of the NDMC is made mandatory in terms of the modified clause no. 9 of the standard Licence Deed before entering into partnership or to allow any person to use the shop in any manner during the valid term of licence subject to enhancement of the existing licence fee by 50%. In default of such prior permission, the licensee/occupant shall be liable for eviction and ejection being unauthorized occupant besides forfeiture of the security deposit and damage charges.
- (iii) **For pending cases of transfer:** Partnership entered before the date of issuing this circular i.e. 16.8.2016, NDMC will entertain such cases, irrespective of whether the same was done during the valid term of licence or after expiry of the licence, as an exceptional case. If the occupant now seeks the permission of the NDMC at this belated stage, such transfer cases shall be regularized after forfeiting the earlier security deposit by the licensee and subject to enhancement of the licence fee by such percentage as per the respective Council's resolutions applicable as on that date for each such transfer and completion of other required formalities like deposit of fresh security deposit, etc.
- (iv) In cases, wherein the licence holder has died and has nominated any other person or organization for using whole of such premises only for purposes such as literature, science, art and social service, without any commercial usage, in such cases the application for transfer of licence, alongwith an undertaking by the applicant to not use such premises for any commercial purpose, may be considered on case to case basis, subject to enhancement of the licence fee by 50%. In case of date of such transfer is before the date of issuing this circular i.e. 16.8.2016, enhancement of the licence fee will be by such percentage as per the respective Council's resolutions applicable as on that date for each such transfer. If at any time, it is found that such premises is used for commercial usage, then licence of such premises will stand terminated after giving a notice of 21 days to such licence holder by Director (Estate).
- (v) Transfers are freely allowed (except in case of premises granted under special considerations such as SC/ST/OBC/Physically challenged etc.) in the above manner only.
- (vi) In case of date of entry of partnership on or after issuing of this circular i.e. 16.8.2016, there will be 30% enhancement in the licence fee. In case of date of entry of partnership before 16th August, 2016 enhancement of the licence fee will be by such percentage as per the respective Council's resolutions applicable as on that date for each such partnership.
- (vii) If the status of the individual licensee is converted into the Private Limited Companies, the same shall be permissible subject to enhancement in the



existing licence fee by 50%. The existing/proposed private limited companies/companies seeking transfer shall have to submit annual declaration indicating change in equity holding pattern, if any. Whenever, there is change in equity holding pattern of more than 25%, the licence fee of such company shall be enhanced by 50% w.e.f. the date of change of such equity holding pattern.

- (viii) Any issue/point not covered under the above policy shall be decided by the Chairman on merits, while keeping the overall spirit of this policy.
- (ix) Deletion of name of partner is allowed without any cost with prior approval of NDMC, subject to NOC from all other holders of that licence.
- (x) Cases involving multiple transfer are to be dealt in accordance with the above proposals.

7. **Clubbing of Units:**

- (i) All cases before issuing this circular i.e. 16.8.2016 shall be governed as per the Council's resolutions application as on that date.
- (ii) Clubbing of stalls and kiosks would not be allowed. Any commercial premise on the right of way is a stall/kiosk.
- (iii) Clubbing of two or more adjoining units (i.e. shops in markets) be allowed subject to the condition that:
 - (a) Technical feasibility and structural safety allows the same;
 - (b) Licence fee of each unit involved in the clubbing shall be enhanced by 30%;
 - (c) Prior permission from NDMC is obtained;
 - (d) Date of expiry of the clubbed unit shall be the date of expiry of unit, whose licence period will expire first;
 - (e) The original shape/structure of the units shall be restore in case clubbing is undone;
 - (f) If a unit involved in such clubbing is given under special considerations such as member of specific group, then such characteristic shall be maintained on such clubbing.
 - (g) A joint license deed shall be executed with licensees, whose units are involved in such clubbing.

8. **Subletting:**

- (i) All cases before issuing this circular i.e. 16.8.2016 shall be governed as per the Council's resolutions applicable as on that date.



- (ii) No sub-letting shall be allowed except in the following case:
- (a) In exceptional circumstance, wherein the licensee expires at age when his family does not have any major legal heir (i.e. on or above 18 years of age) except his wife, then (i) the wife of the licensee, or (ii) in case of death of wife of the licensee – all legal heirs of the licensee, may apply for permission to a three-member Committee of Dir(Estate), Municipal Officer Health and Chief Architect for sub-letting the shop; and
 - (b) The Chairperson, on case-to-case basis, considering the recommendation of the Committee, may allow the same on payment of one-time fee [Rs. 50 per sq. ft. for open area and Rs. 200 per sq. ft. for other than open area (this fee is to be revised every five years)] for two years at a time, in addition to licence fee/other applicable dues; and
 - (c) If required, the person(s) mentioned above may apply for extension of such permission atleast 90 days before expiry of such approved period following the procedure mentioned above; and
 - (d) This sub-clause does not give any right to anyone to sublet the NDMC's premises, and can be done only after prior approval of Chairperson in exceptional circumstances as mentioned herein.

9. **Damages on Cancellation and revocation of cancellation of licence**

- (i) All cases before issuing this circular i.e. 16.8.2016 shall be treated as per the Council's resolutions applicable as on that date.
- (ii) From 16th August, 2016 on cancellation of the licence, the damages may be charged at 130% of the last applicable licence fee. The damage charges shall increase at compounding rate of 10% annually. These charges shall continue, so long, as the cancellation of licence continue. If cancellation order is withdrawn / quashed, the damages may be reduced only from the date of order withdrawal / quashing of the order of cancellation, and the charges already collected may not be refunded or adjusted.

10. **Interest rate on delayed or non-payment**

- (i) All cases before issuing this circular i.e. 16.8.2016 shall be governed as per the Council's resolutions applicable as on that date.
- (ii) Interests on default payments are charged to discourage any late payment, and to protect the interests of the NDMC. Therefore, from 27th June, 2016, interests may be charged at the rate of 1.25% per month (i.e. 15% per

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annum) from the 1st of succeeding month when the allottee fails to pay the licence fee.

11. **Sealing and de-sealing of premises:**

- (i) In case of violations of terms and conditions of the licence, the premises may be sealed by the NDMC officials with the prior approval of Director Estate or officers senior to Director Estate in hierarchy.
- (ii) During the period when the premises remains sealed, the licensee has to pay charges equal to Damages on Cancellation as mentioned in para 9 above. During the de-sealing period, the licensee has to pay licence fee, as applicable from time to time.
- (iii) On a request from the licensee, the premises, which has been sealed due to major violations, may be de-sealed for a period of one month for rectifying violations with the approval of Secretary, NDMC. In case, more than one-month de-sealing permission is required for rectifying violations, the same shall be done with the approval of Chairperson, NDMC. However, in any case, such de-sealing permission cannot be given for a period more than 3 months in a stretch.
- (iv) After rectifications of all violations and payment of all dues/arrears/fees etc. to the NDMC, the licensee may apply for de-sealing the shop. The Estate Department, within a period of 30 days, submit the request of the licensee with the Department's recommendation, including a site inspection report, to the Chairperson, NDMC for a decision in the matter. In case, no decision on such de-sealing application is taken and uploaded on the NDMC's website within a period of 30 days of receipt of such application in the NDMC, then in such case, such application for de-sealing of such premises will be deemed approved. In case of such deemed approval, Head of the Department will be held responsible for such delay or any eventuality arising out of such deemed approval. The licensee be allowed for normal activity of business as per the terms of the licence agreement.

12. **Mutual Exchange:**

- (i) All cases before issuing this circular i.e. 16.8.2016 shall be governed as per the Council's resolutions applicable as on that date.
- (ii) Mutual exchange will be allowed with prior approval of the NDMC subject to the condition that:
 - (a) Each licensee would take over all the responsibilities and liabilities due to NDMC;



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- (b) All fees/dues/penalties etc. Pending against all licence holders involved in such exchange has been paid to the NDMC;
- (c) In case where a mutual exchange is within a market, permission by NDMC for such exchange may be considered by enhancing licence fee of units involved in such exchange by 10% each;
- (d) In case where mutual exchange is not within a market, permission by NDMC for such exchange may be considered by enhancing licence fee of units involved in such exchange by 50% each;
- (e) If there is any change in trade, etc., then policy for change in trade, etc. will also be applied.

13. **Security Deposit:**

- (i) All cases before issuing this circular i.e. 16.8.2016 shall be governed as per the Council's resolutions applicable as on that date.
- (ii) The applicant shall deposit security deposit equal to eight months of licence fee with the NDMC before signing of the licence agreement, including at the time of renewal, transfer etc. In case of any default by the licence holder, such security deposit shall be adjusted against any dues, and security deposit shall be replenished within a period of 45 days, failing which the licence shall deemed to be suspended.

14. **Lofts and Mezzanine:**

- (i) All cases before issuing this circular i.e. 16.8.2016 shall be governed as per the Council's resolutions applicable as on that date.
- (ii) From the date of decision of the Council, permission for loft and mezzanine be considered wherein 'Unified Building Bye-laws for Delhi(as applicable from time to time) and 'Master Plan Delhi, 2021'(as applicable from time to time) permits the same, subject to technical feasibility, structural safety and other statutory clearance, as applicable.

15. **Other Conditions:**

- (i) For renewal of license OR change of trade of license (including cases of additional trades) OR transfer / partnership OR subletting of license OR any combination of them as mentioned in paras 3 to 14 above, which took place before date of issuing this circular i.e. 16.8.2016 .
- (ii) As an amnesty measure, all defaulters may be given a period of 60 days, for filing application as per the procedure, from 16th August, 2016.



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- (iii) The applicant filing such application may make payment at the time of filing of application or even earlier, which is subject to the verification by Accounts Department of NDMC in due course of time.
- (iv) The applicant shall pay all the dues, including fees, arrears, charges, penalties etc. within a period of six months from the date of filing of his application.
- (v) The events shall be dealt in chronological order. For example:
 - (a) A licence given on 01.01.2001 for 10 years is due to expire on 31.12.2010;
 - (b) The licence holder has (I) changed trade on 01.01.2005, (II) entered into partnership on 01.01.2006, (III) applied for renewal on time but no renewal granted, or applied for renewal after the prescribed time but before the expiry of 60 days from the date of issuance of minutes of this decision of the Council, (IV) entered into further partnership on 01.02.2011 after expiry of licence period, (V) further changed trade of the premises under consideration on 01.03.2013; where all these actions have been done without taking approval in writing from the NDMC.
 - (c) Then these events shall be dealt in chronological order viz. (I), (II), (III), (IV) and then (V) w.e.f. from the date of occurrence of such events for the purpose of levying charges, penalty, fees or any other action to be taken accordingly.
 - (d) It is to be clarified herein that any case for trade change, partnership etc. will be entertained when there is a valid licence on date of such event. Renewal for such period shall be done first, followed by action on such application for trade change, partnership etc. during that period.
 - (e) No application shall be considered under this regularization for past events after 60 days from 16th August, 2016.
 - (f) No application under this policy decision shall be considered in cases where the NDMC has already terminated / cancelled the license deed.
 - (g) This policy may be used for resolving court matters.
- (VI) A copy of the decision of the Council (both in English and in Hindi) shall be provided / pasted / posted on each of the said NDMC's premises, which are covered under this Policy, by 31st August, 2016. A copy of the Council's resolution shall also be uploaded on the NDMC's website. This copy of resolution shall be treated as notice from the NDMC to the occupants of NDMC's premises.

