

**MUNICIPAL CORPORATION OF GREATER MUMBAI
PUBLIC HEALTH DEPARTMENT
NO: HO/14432/C DATED :**

CIRCULAR

Sub: Incorporation of condition nos. 35 to 37 in General Conditions of License issued u/s 394 of MMC Act.

In Public Interest Litigation (LOD) no. 111 of 2010 filed by the NGO "Crusade Against Tobacco", Hon'ble High court, Mumbai by order dated 5/5/2011 has observed that the Hukkah Parlors are being run at places which are granted licenss as Eating Houses, however the terms & conditions of License for do not provide, as a part of the for stringent compliance with the provisions of "Cigarette and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and commerce Production Supply and Distribution) act 2003" and the rules made therein.

Hence, Hon'ble High Court, Mumbai has directed Municipal Commissioner to incorporate stringent terms and conditions in the Eating House licenses issued u/s 394 of MMC Act. In view of the same, AMC (WS) has accorded the approval under No. AMC/WS/H/5047 dt. 1.7.2011 to incorporate new conditions No. 35 to 37 in General Conditions of Licenses. These conditions shall be deemed to be incorporated in all the Eating House Licenses, including the existing Licenses issued u/s 394 of MMC Act.

The conditions under No.35 to 37 in General conditions of license u/s 394 of MMC Act reads as follows:-

Condition No. 35 – The licensee shall not keep or allow to keep or sell or provide any tobacco or tobacco related products in any form whether in

the form of cigarette, cigar, bidis or otherwise with the aid of a pipe, wrapper or any other instrument in the licensed premises.

The Commissioner may permit smoking area as per Section 4 of Cigarette and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce Production Supply and Distribution) Act, 2003 (COTPA) in an eating house having seating capacity of thirty persons or more.

- A) The smoking area shall mean separately ventilated smoking room that :
- i. is physically separated and surrounded by full height walls on all four sides.
 - ii. has an entrance with an automatically closing doors normally kept in close position;
 - iii. has an air flow system that
 - a. is exhausted directed to the outside and not mixed back into the supply air for the other parts of the building
 - b. is fitted with a non-recirculation exhaust ventilation system or an air cleaning system or by a combination of the two to ensure that the air discharges only in a manner that does not re-circulate or transfer it from a smoking areas.
 - iv. has negative air pressure in comparison with the remainder of the building.
- B) The Smoking area shall not be established at the Entrance or Exit of the eating house and shall be distinctly marked as “Smoking Area” in English & in Marathi as per the COTPA.

- C) The Smoking area shall be used only for the purpose of smoking and no other service(s) or any apparatus designed to facilitate smoking shall be provided.
- D) The smoking area shall not be less than 100 sq. ft. with each side of the room shall not be less than 8 ft. and height of the room shall not be less than 9 ft. The smoking area shall be included in the licensed area of the eating house.
- E) The total area of the smoking room not be more than 30% of the total licensed service area of the eating house.

Condition No. 36 – No person below the age of 18 years shall be permitted in the smoking area.

Condition No. 37 – The owner, protector, manager, superior in charge of the eating house shall notify and caused to be displayed the name of the person(s) to whom a complaint may be made by a person(s) who observes any person violating the provisions of COTPA.

The Licensee shall comply with the aforesaid conditions and breach of any of the condition shall entail cancellations/suspensions/revocations of License.

The proposal regarding including of the smoking area in the licensed area of Eating House shall be approved by the concerned DEHO.

All concerned officers for Health Dept. & License Dept. are hereby instructed to stringently enforce the above mentioned condition nos 35 to 37 of general conditions of Licenses u/s 394 of MMC Act. These

conditions should be incorporated in all existing as well new Eating House License.

All the concerned Officers of the Health Department are directed to take special drive against those eating houses against complaints of serving hukkah are received and take stringent action by following due procedure.

The above instructions should be followed scrupulously. Zonal AHOs, DEHO, and Jt. E.H.O shall exercise close supervision over this special drive.

Sd/-

Executive Health Officer (I/c)

No. HO/14432/C

Copy submitted to AMC (WS)

Copy submitted to DCM (z-1 to Z-VII) for information please.

Copy to Asst. Commissioner – A to T wards for information please

Copy to Supdt. Of Licenses for information & necessary instructions to this subordinate officer please.

Copy to MOsH A to T wards for information & necessary action.

Copy to Jt. EHO, DEHOs, AHOs for Information & necessary action.

Copy to DEHOs (SAP) for information & necessary action for SAP system.

Sd/-

Executive Health Officer I/c