

KARNATAKA ORDINANCE NO. 02 OF 2011
THE KARNATAKA REGULATION OF STONE CRUSHERS ORDINANCE, 2011

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(Promulgated by the Governor of Karnataka in the Sixty Second year of the Republic of India and First published in the Karnataka Gazette Extra-ordinary on the Seventh day of September 2011)

An Ordinance to provide for the regulation of Stone Crushers in the State of Karnataka.

Whereas the Hon'ble High Court of Karnataka by its order dated: 10.7.1998 in Writ Petition No.17078/1997 has directed the State Government to formulate a policy regulating the carrying on the business relating to the crushing of stones by prescribing reasonable conditions including guidelines and licenses and their periodical renewals.

Whereas both houses of the State Legislature are not in session and on account of the direction of the Hon'ble High Court of Karnataka and Supreme Court, the Governor of Karnataka is satisfied that circumstances exist which render it necessary for him to take immediate action to provide for regulation of Stone Crushers in the State of Karnataka and for matters connected therewith and incidental thereto.

Now, therefore in exercise of the powers conferred by clause (1) of Article 213 of the constitution of India, the Governor of Karnataka is pleased to promulgate the following Ordinance, namely:-

1. Short title and commencement.- (1) This Ordinance may be called the Karnataka Regulation of Stone Crushers Ordinance, 2011.

(2) It shall come into force from such date as the State Government may, by notification, appoint.

2. Definitions.- (1) In this Ordinance, unless there is anything repugnant in the subject or context,-

- (a) "Appellate Authority" means the Regional Commissioner of the concerned region;
- (b) "committee" means the District Stone Crusher Regulation Committee constituted under section 8;
- (c) "Deputy Commissioner" means the Deputy Commissioner of the concerned Revenue District;
- (d) "Licence" means a licence granted under this Ordinance;
- (e) "Licensee" means a person or a company holding licence under this Ordinance;
- (f) "Licencing Authority" means the Deputy Commissioner of the concerned Revenue District;
- (g) "Licence fee" means the licence fee payable under this Ordinance;
- (h) "Pollution Control Board" means the Karnataka State Pollution Control Board established under the provisions of the Water (Prevention and Control of Pollution) Act, 1974;
- (i) "rules" means rules made under this Ordinance;
- (j) "safer zone" means a location or a zone declared as such by the Licencing Authority, by notification;
- (k) "stone crusher" means any power driven machinery of any size which crushes stone;
- (l) "year" means year commencing on the first day of April and concluding on 31st day of March of the succeeding year.

(2) All other words and expressions used in this Ordinance but not defined shall have the same meanings respectively assigned to them in the Mines and Minerals (Development and Regulation) Act, 1957 (Central Act 67 of 1957) and rules issued thereunder.

3. Stone crushers to obtain license.- (1) No person shall carry on the business of stone crushing in the State except under and in accordance with the terms and conditions of a license issued under this Ordinance.

(2) Any person who is carrying on the business of stone crusher on the date of commencement of this Ordinance with a license issued by any authority shall apply to the Licencing Authority for a license under section 4 of the Ordinance within three months from the date of declaration of safer zone under section 6.

(3) On receipt of the application made under sub-section (2), the existing stone crusher units may be allowed to function till the grant or refusal of the license under the provisions of this Ordinance or till three months from the date of receipt of application within which time the licensing authority shall dispose of such application after due verification of the location fulfilment of other conditions of licence.

(4) On grant of licence under sub-section (3), the existing stone crusher shall shift such units to the safer zone within six months as declared under section 6.

4. Application for license.- (1) Every application for grant or renewal of license to carry on the business of stone crushing under this Ordinance shall be made to the licensing authority in such form, accompanied by such documents and such fees as may be prescribed.

(2) On receipt of application for grant or renewal of licence, the Licencing Authority shall cause inspection of the location and after verifying the fulfilment of other conditions of licence grant or reject the application within three months from the date of application.

5. Term of license.- A license shall be valid for a period of one year and may be renewed for a further period from time to time subject to fulfilment of the conditions laid down under this Ordinance or the rules made thereunder.

Explanation.- Where a license has been granted in the middle of a year, for the purpose of computing the term of license, the remaining part of the year shall be deemed to be a year.

6. Conditions for grant of license.- License shall be granted under this Ordinance subject to the following conditions, namely:-

(1) The stone crusher shall not be established outside the safer zone;

(2) The safer zone shall be within a location of,-

- (a) two kilometres away from the National Highways, habitats, temples, schools and river;
- (b) one and a half kilometres away from the State Highway;
- (c) five hundred meters away from the link roads;
- (d) eight kilometres away from the limits of Municipal Corporations;
- (e) four kilometres away from the limits of District Head Quarters;
- (f) two kilometres away from the boundary limits of a Taluk Head Quarters;

(g) one kilometre away from the limits of an inhabited village or any land recorded as forest in Government records or any private land which is shown as cultivable land in the revenue records;

(3) No two safer zones shall be located within a radius of fifty kilometres.

(4) The Licencing Authority shall, within a period of four months from the date of commencement of this Ordinance, identify the safer zones as above specifying the area and limits within their jurisdiction:

Provided that the Licencing Authority may in exceptional circumstances and for the reasons to be recorded in writing may relax any of the condition or conditions specified in sub-section (2) for the purpose of declaration of safer zones.

(5) The Licencing Authority shall send the proposal of declaration of safer zone under sub-section (4), to the pollution control Board for its certification. On receipt of the proposal by the pollution control Board or where three months have lapsed from the date of the proposal and no communication has been received by the Licencing Authority, the Licencing Authority shall by notification declare the safer zone in accordance with the proposal.

(6) Each stone crusher unit shall be located in a minimum area of one acre of land including stone crushers belonging to State Government or the Panchayat as the case may be.

(7) Each unit shall abide by the pollution control measures or such other safeguards as may be prescribed by the Karnataka State Pollution Control Board from time to time.

(8) Each unit shall conform to the Noise (Regulations and Control) Rules, 2000.

(9) The unit shall abide by the provisions of the Air (Prevention and Control of Pollution) Act, 1981 and the Environment Protection Act, 1986 and rules made thereunder.

7. License for stone crushers for Government projects.- Notwithstanding anything contained in this Ordinance, license for temporary stone crushers exclusively for construction of National Highway, State Highway or any other infra-structural Government project and Government approved Public Private Partnership Projects may be granted for the project period on their fulfilling the provisions of the Air (Prevention and Control of Pollution) Act, 1981 and Environmental Protection Act, 1986 and Rules made thereunder.

8. Establishment of District Stone Crushers Regulation Committee.- (1) On and from the date of commencement of this Ordinance, there shall be established in each of the Revenue District a District Stone Crushers Regulation Committee consisting of the following, namely:-

(a)	The Deputy Commissioner of the District	Chairman
(b)	Superintendent of Police of the District	Member ex-officio
(c)	CEO of Zilla Panchayath of the District	Member ex-officio
(d)	Deputy Conservator of Forest of the District	Member ex-officio
(e)	Environmental Officer of the District	Member ex-officio
(f)	Assistant Director of Fire Force of the District	Member ex-officio
(g)	Assistant Director of Factories and Boilers of the District	Member ex-officio
(h)	Labour Officer in charge of the District	Member ex-officio
(i)	District Health Officer	Member ex-officio
(j)	Deputy Director / Senior Geologist, Department of Mines and Geology to be appointed by the Chairman	Member-Secretary

(2) The District Stone Crushers Regulation Committee shall assist the licensing authority and shall be responsible for the supervision of the licensed premises. The license shall be issued after obtaining No Objection Certificate from the concerned departments including the Karnataka State Pollution Control Board, the Forest and the Revenue departments and in accordance with the rules as may be prescribed.

9. Inspection and regulation of the licensed Stone Crushers.- The Deputy Commissioner or an officer authorized by the Deputy Commissioner shall inspect each stone crusher at least once a year.

10. Cancellation of license.- The license issued under this Ordinance may be cancelled suo-moto for the reasons to be recorded in writing by the Licensing Authority or on considering any complaint or application filed by any person to the effect that the license granted is not in accordance with the provisions of this Ordinance and rules or that the licensee has violated the conditions of license:

Provided that no order of canceling the license shall be made under this section without giving an opportunity of being heard to the licensee or a person aggrieved by such cancellation.

11. Power to issue directions.- Subject to the provisions of this Ordinance and to any directions that the Central Government or State Government may give in this behalf, the Licensing Authority may in the exercise of its powers and performance of its functions under this Ordinance, issue any directions in writing to any person, officer or authority, and such person, officer or authority shall be bound to comply with such directions.

Explanation.- The power to issue directions under this section shall include, the power to direct,-

- (a) the closure, prohibition or regulation of any stone crusher; or
- (b) the stoppage or regulation of supply of electricity, water or any other service to the stone crusher.

12. Victim Relief Fund.- (1) The Committee shall have and maintain a separate fund called Victim Relief Funds, to which shall be credited all moneys received by it through licence fee, fines and penalties levied by it, which shall be held, applied and disbursed in accordance with the provisions of this Ordinance, and rules made thereunder.

(2) The Chairman and the member secretary of the Committee shall operate the Victim Relief Fund in accordance with the rules made under this Ordinance.

(3) The Victim Relief Fund shall be kept in any of the Nationalised Bank in such manner as may be prescribed.

(4) The Committee shall receive complaints or applications or claim from the victims on account of the health hazard caused by the stone crushers within a period of three months from the date the health hazard has occurred and consider such applications and determine the amount of relief to be granted to each of the applicant within a period of three months from the date of receipt of the application in accordance with the rules as may be prescribed:

Provided that the Committee may entertain such complaints or applications after the expiry of three months if it is satisfied that the complainant or applicant had sufficient cause for not submitting the complaint or application in time.

(5) The Committee may also direct the licence holder to pay such amount to such of the victims as determined under sub-section (4) in addition to the amount paid by it, within a period of two months from the date of the Order failing which the license shall be cancelled.

13. Accounts and Audit.- (1) The Accounts of all receipts and expenditure of the Victim Relief Fund shall be kept in such manner and in such form as may be prescribed.

(2) The accounts of the Victim Relief Fund shall be subject to audit annually by the State Accounts Department and the audit report shall be forwarded annually to the State Government.

14. Annual report.- The committee shall prepare for every year a report of its activities under this Ordinance and submit the same to the State Government in such form on or before such date as may be prescribed and the State Government shall cause the same to be laid before each house of the legislature.

15. Appeals against the orders of the Licensing Authority.- (1) The Regional Commissioner of the concerned region shall be the Appellate Authority of respective jurisdiction to whom appeals in respect of the orders passed by the licensing authority shall lie.

(2) Every appeal shall be presented within thirty days from the date on which the order appealed against was communicated to the person affected:

Provided that an appeal may be admitted after the said period of thirty days, if the appellant show sufficient cause that the appeal could not be presented in time.

(3) Every appeal shall be in the form of memorandum setting forth concisely the grounds of objection to the order and shall be accompanied by a copy of the order appealed against.

(4) The appeal shall be disposed off on hearing both sides within a period of three months.

16. Penalties.- (1) Whoever contravenes the conditions of license shall be punished with imprisonment for a term which may extend to two years or with fine which may extend to twenty-five thousand rupees or with both.

(2) Any rule made under any provision of this Ordinance may provide that any contravention thereof shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five thousand rupees or with both and in the case of continuing contravention, with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

17. Cognizance of offences.- (1) No court shall take cognizance of an offence punishable under this Ordinance or any rules made thereunder except upon complaint in writing made by a person authorized in this behalf by the Licensing Authority.

(2) No court below the Judicial Magistrate first class shall try any offence punishable under this Ordinance.

18. Power to make rules.- (1) The State Government may, after previous publication by notification, make rules for carrying out the purposes of this Ordinance.

(2) Every rule made under this Ordinance, shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

19. Removal of difficulties.- If any difficulty arises in giving effect to the provision of this Ordinance, the State Government may, by order published in the official Gazette as the occasion may require do anything which appears to it be necessary to remove the difficulty.

H.R.BHARDWAJ
GOVERNOR OF KARNATAKA

By Order and in the name of the Governor of Karnataka,

G.K. BOREGOWDA
Secretary to Government
Department of Parliamentary Affairs and Legislation