

RULES AND REGULATIONS GOVERNING THE LICENSING OF DHABA IN GANGTOK

State: Sikkim

Details of licensing are as follows:

As per the RTI reply, Sikkim do not have dhabas but bhojanalayas, fast food joints, restaurants for which trade license is issued by Urban Development and Housing Department. Eateries needs license from Prevention of Food Adulteration Cell, Health Department and trade license from Urban Development and Housing Department.

As per trade license rules, No person shall manufacture, store, sell, exhibit for sale, use or permits to be used any place for the purpose of trade of any goods or commodity as enumerated in Schedule I or Schedule II as the case may be, except under a License issued under these rule.

License Procedure:

The applicant has to obtain license from Prevention of Food Adulteration Cell, Health Department before the issue of trade license by Urban Development and Housing Department For the license from Prevention of Food Adulteration cell, application in the prescribed form has to be submitted in the Prevention of Food Adulteration Cell. This license will be regulated as per the directions of Prevention of Food Adulteration Act.

To avail trade or hawker license from Urban Development and Housing Department, the applicant has to submit an application in the prescribed form along with relevant documents required as per the trade items. The license is issued if applicant fulfils the criteria's laid down for the issue of trade license or hawker license. The application in the prescribed form can be availed after depositing Bank receipt of Rs.20/-

Authority:

Department involved will depend upon the business. For eateries, Prevention of Food Adulteration Cell has a major role. Final Authority for license from Prevention of Food Adulteration Cell is secretary of health Department whereas final Authority for hawker license is Urban Development and Housing Department.

The following parts are the requirements of trade license.

Documents Required:

1. Sikkim Subject Certificate/Certificate of Identification, Residential Certificate
2. No Objection Certificate from house Owner in the house where shop is proposed to be opened
3. Occupancy Certificate of House if in notified Bazaar areas
4. Recommendation of Area M.L.A
5. Recommendation of Panchayat
6. Passport size photos
7. No Objection Certificate from Forest Department in case of location of business falls in rural areas

8. License from Prevention of Food Adulteration Cell, Health Department
9. No Objection Certificate from Forest Department for sale of forest products.

In addition trade license rules states that every person applying for trade license should have attained the age of 18 (eighteen) years on the date of application for issue of trade license. For the purpose of ascertaining the date of birth, any of the following documents should be furnished, namely: -

1. School Certificate showing the date of birth.
2. Birth Certificate issued by the Registrar of birth and death or appropriate authority as notified by the Government from time to time.

Time Prescribed:

No specific time has been prescribed; the time period sometime varies from six months to one year.

Fees:

Rs.550/- is to be remitted for application from and the trade items..

Issue of trade license:-

On receipt of an application and subject to the provision of these rules: -

1. A license may be issued in Form II in respect of items enumerated in Schedule I.
2. A Hawker license may be issued in Form III in respect of items enumerated in Schedule II,
3. A copy of the license may be supplied to the District Collector having jurisdiction over the place where the licensee carries on his business.
4. A copy of the license may be supplied to the District Collector having jurisdiction over the place where the licensee carries on his business.

License Renewal:

A trade license or hawker license issued under these rules unless suspended or cancelled earlier shall be in force only till the end of the financial year during which it is issued. An application for renewal of a license shall be made before the expiry of validity of license and the procedure for renewal is the same as detailed for granting a license. The license shall be deemed to be in force during the pendency of the disposal of the renewal application.

The trade or hawker license is issued for a period of one year. All licenses are required to be renewed on expiry of the prescribed period. In case of delay for renewing the trade or hawker license, apart from renewal fees, the trader is charged with a fine of Rs.5/- per day till the date of renewal of license.

Conditions for Renewal:

As per the trade license rules, following are the conditions for renewal:

1. The licensee shall surrender the trade license in original for renewal
2. That the licensee shall deposit the prescribed annual fee to be paid for renewal of license
3. That the licensee shall clear the toll tax payable to the Bazar Contractor, shop room rent and the ground rent payable to the Urban Development and Housing Department "
4. The licensee should be renewed within 45 days from 1st April of a year or till the date of renewal whichever is earlier
5. The licensee submitted after the prescribed period shall be charged a late fee of Rs.5/- for every day of delay

Conditions for running a Hawker business:-

1. A Hawker license shall not be issued for more than three Bazaars Provided, however, separate license fee shall be payable in respect of each bazaar
2. Issue of Hawker license will be subject to the availability of space in that particular bazaar
3. A licensee shall confine his trade within the specified market yard
4. A licensee shall not occupy more than the area earmarked by the Department for exposing his goods for sale
5. A licensee shall not raise any structure for exposing his goods for sale

Cancellation of license:-

As per the rules, license will be cancelled in following cases.

1. if the licensee fails to abide by the conditions laid down in the license;
2. If the premises of the shop has been shifted without approval of the State Government;
3. If the fire fighting equipments are not available in the shop;
4. if the container for disposing garbages and refuses is not available within the premises;
5. if any animal is kept in the shop premises or within the bazaar area without abiding by the general instruction issued by the Government from time to time;
6. if the licensee carries on or permits to be carried on, any other trade in the licensed premises, except the trade mentioned in the license;
7. if it becomes evident that the running of the trade has created a public nuisance and polluted the vicinity;
8. if it becomes evident that the information submitted in Form I is a misrepresentation of fact or mistake;
9. if the licensee fails to display a notice board containing the nature of articles which he is exposing or offering for sale in accordance with the instructions issued by the Government from time to time ;
10. If the licensee dies before expiry of the date of validity of the trade license,
11. If the licensee fails to display the original copy of license in the shop premises,

12. If the licensee does not display a board specifying trade license No, firm registration No etc, if any and name of the proprietor.”
13. If it is found that licensee is not carrying on trade/operation or keeping articles of food, in accordance with the Central Rules or the State Rules framed in exercise of the powers conferred by the Prevention of Food Adulteration Act 1954 (Central Act 37 of 1954)

Provided that no order of cancellation shall be made unless the licensee has been given opportunity of making representation;

1. If it is found that the trade license has been sublet;
2. If it is found that licensee is carrying on his business in an unapproved building

Duplicate license: -

As per the rules, the authority empowered to issue a license may, for sufficient reasons, issue a duplicate license on payment of Rs.25/- with the word “Duplicate” appearing prominently therein.

Terms and Conditions:

1. Licensee shall deal only with the commodities and at place approved by Urban Development and Housing Department
2. Licensee shall not sell any adulterated commodity as defined in PFA Act.
3. Licensee shall not sublet
4. Licensee shall keep the premises neat and clean and free from any sanitary defect.
5. Licensee shall not deliver any goods or materials purchased or otherwise to any person, firm, shop, company or any agency or organization in plastic wrappers or plastic bags.
6. Licensee shall maintain two empty tins for the disposal of bio degradable and non-biodegradable waste products as per the provisions of the Sikkim –Non-Biodegradable Garbage (Control) Act 1997. In case the license is for a clinical purpose a separate tin shall be maintained for the disposal of bio-medical clinical waste
7. Two empty tins musty be there for the disposal of bio degradable and non-biodegradable waste products
8. License is to be displayed in a prominent place
9. The tax must be paid as assessed in the bazaar Contract License Agreement

As per the trade rules, Following are the conditions in advance

1. That you shall abide by all instructions given by the Department from time to time;
2. That you shall produce your license whenever required to do so by any officer of the Department;
3. That you shall deal only in commodities and at places mentioned in the license.
4. That you shall not close business without the approval of Local Self Government & Housing Department whether temporarily or permanently;
5. That you shall not sell any adulterant as defined in Prevention of Food Adulteration Act, 12954;
6. That you shall not display your goods(commodities) on public thoroughfares;

7. That you shall pay tax as assessed in the Bazar Contract License Agreement
8. That you shall allow any officer of the Local Self Government and Housing Department authorised by the authority empowered to issue license enter into any premises, where manufacture and/or sale of commodities is carried on

Suspension:

As per the RTI, Failure to comply with the provisions will result in suspension or cancellation of the license.

Inspection:

As per rules, in case the application for a license is for manufacture, storage or sale of any one of the articles of food, the authority having power to grant such a license shall inspect the premises and satisfy himself that the premises is free from sanitary defects. In the places where food etc intended for human consumption is stored, The Secretary or any officer authorised by the Secretary in this behalf, may at all reasonable time enter into and inspect any place in which any living thing, food or any article of food or any drug is deposited for the purpose of sale; or inspect and examine any living thing, food or any other article of food or any drug intended for human consumption which is being hawked about for sale.

Penalty:

Operation of the business without a valid trade license or a hawker license issued by the Urban Development and Housing Department will result in closure of the business and imposition of fine as per the prescribed rules. Commitment of an offence or the failure to comply with any provisions of the Act or these rules or any direction lawfully given to him under the provision of the Act or rules shall be punished with fine which may extend to Rs.5000/- to Rs.20000/- depending upon the situation.