

RULES AND REGULATIONS GOVERNING THE LICENSING OF DHABA IN SHIMLA

State: Himachal Pradesh

Details of licensing are as follows:

A dhaba/tea-stall/snack bar is a place where cooked food and other edible items for human consumption are sold. As per the RTI reply from the corporation, dhaba is a small open eating place on the road side offering in the expensive dishes. RTI reply defines tea stall as small time vendors who primarily sell tea, coffee, milk etc and snacks bar is a place where snacks (small amount of food eaten between meals) are sold.

The Laws applicable for the licensing of dhaba's are The Himachal Pradesh Municipal Corporation Act 1994 and Provisions of Prevention of Food Adulteration Act. Shimla Municipal Corporation (Cooked Food) Byelaws 1984, "The Shimla Municipal Corporation (Control and Regulation) Hawkers Bye-Laws 2004, The Shimla Municipal Corporation Sanitation and Public Health Bye-laws 2004, The Shimla Municipal Corporation (Municipal Market) Bye-laws etc are also applicable.

Normally only one license is needed to open and operate a dhaba. Prevention of Food Adulteration Act is having a key role in governing the licenses to these dhaba's. There are two different application forms for items to be sold either under PFA and/or under non PFA. (Prevention of Food Adulteration) According to the act, the person has to take a License when he/ she wants to operate a business of dhaba, tea-stall or a snack bar.

As per section 318 of Himachal Pradesh Municipal Corporation Act, No animal or article shall be sold or exposed for sale within distance of one hundred metres of any municipal market or licensed private market without the permission of the Commissioner. The violators can be punished under the act. Section 327 says that No person shall, without or otherwise than in conformity with the terms of a licence granted by the Commissioner in this behalf hawk or expose for sale in any place any article whatsoever whether it be for human consumption or not.

As per Shimla Municipal Corporation (Cooked Food) Byelaws, 1984, no person shall manufacture, sell, or prepare or expose for sale cooked food except in the licensed premises by the Municipal Corporation and no person shall sell any such article by drinking. The license issued in will be subject to conditions described in the byelaws.

According to "The Shimla Municipal Corporation (Control and Regulation) Hawkers Bye-Laws, 2004, Hawkers" means a person who deposits goods for sale in a public street and includes a Behangiwala, Khonchewala and pheriwala. No Hawker shall be allowed to sell any articles in any public street within Municipal Corporation Limit except under the written permission granted by the Commissioner, Municipal Corporation, Shimla or the licensing officer/official authorised by him in the form of a license annexed to the

bye laws and is supposed to follow the conditions contained in the said written permission.

The Shimla Municipal Corporation Sanitation and Public Health Bye-laws 2004, The Shimla Municipal Corporation (Municipal Market) Bye-laws are also applicable.

LICENSING PROCEDURE:

The License can be obtained upon filling up of an application form available at the Estate Branch of the Municipal Corporation at a cost of Rs.5/- only. There is a procedure to apply and if the application is found satisfactory including obtaining recommendation of the Health Official, a License is granted within a week's time. The procedure is rather simple and requires little documentation.

At first one has to obtain an application form at a cost of Rs.5/- from the Municipal Corporation and submit the duly filled application form along with the required documents and remit the applicable amount by cash or cheque for annual License fee. (A copy of the application is forwarded to the Corporation Health Officer from the Estate branch and he is expected to conduct routine investigation of the premises or may be escorted by the applicant to expedite the process, the report is then sent back to the Estate Branch with Corporation Health Officer's comments and verifications on the basis of which a final decision is made.

DOCUMENTS REQUIRED:

1. Affidavit of the applicant on Rs.5 Stamp paper containing information regarding the legality of ownership/tenancy of the premises, since how long the business is being run
2. NOC from Architect/Planner Branch.
3. NOC or recommendation of the Corporation Health Officer

AUTHORITY AND DEPARTMENTS :

For PFA licenses, the authorities involved are Corporation Health Officer, Municipal Engineer, Architect Planner, Tax Department Secretary, Fire department secretary H.P. Government and Superintendent of Estates Branch.

Departments are Estates Branch, Health Department, Water supply and sewerage, Architect Planner Branch, Tax department of the corporation, Fire department of H.P. Government and Estates Branch etc.

PRESCRIBED TIME:

There is no time limit prescribed in the Acts and Bye laws.

LICENSE FEES:

The fee has to be remitted along with the filled in application form at the Estate Branch. It varies according to the area of the premises and nature of business as follows:

FEES BASED On PREMISE

Up to 125 sq ft	- Rs.200
More than 125 sq ft	- Rs.300

FEES BASED ON PURPOSE

Catering	- Rs.500
Lodging	- Rs.500
Bar	- Rs.500

Only one License is granted per application and a single application can contain more than one type of business, however the License fee is additional and is computed in total.

As per the "The Shimla Municipal Corporation (Control and Regulation) Hawkers Bye-Laws, 2004" The licensee shall be liable to pay tehbazari in addition to the licensee fee, at the rates to be decided by the commissioner Municipal Corporation, Shimla from time to time. Tehbazari shall be charged weekly in advance.

RENEWAL PROCEDURE:

A License is renewable every subsequent year i.e. it is granted at an annual basis only. There is a penalty in case of failing to obtain or renew a License as and when required

Up to one month's delay	-	50% of License fee
Up to two months' delay	-	75% of License fee
Up to three months' delay	-	100% of License fee

A delay of more than such time is penalized at the discretion of the Joint Commissioner of the Municipal Corporation who also holds powers of a Judicial Magistrate delegated by the Honorable High Court of Himachal Pradesh.

TERMS AND CONDITIONS:

1. Keep a valid License at all times.
2. Maintain health and hygiene at the premises and also personally or that of the staff working at the business. Be properly inoculated against infectious diseases.
3. Be available for queries and inspection of premises from time to time.

Timings:

As per the "The Shimla Municipal Corporation (Control and Regulation) Hawkers Bye-Laws, 2004, The Commissioner or the licensing officer/official limit the time during which Hawkers may be permitted to operate either generally or specially in respect of any class of articles or in any particular public street.

Penalty:

As per PFA act (Prevention of Food Adulteration), court can impose a sentence of imprisonment which can extend to three months with a fine which can extend to Rs.500 /- for dhaba's operating without license. It is an offence under the section 7 of the PFA act.

At the discretion of Joint Commissioner, Municipal Corporation Shimla a minimum fine of Rs.50 and a maximum fine of Rs.500 is payable if operating without a License. In addition a delay of more than three months for renewal is penalized at the discretion of the Joint Commissioner of the Municipal Corporation who also holds powers of a Judicial Magistrate delegated by the Honorable High Court of Himachal Pradesh.

As per the RTI(Right to Information) reply, there is provisions for penalty after the two months later than the prescribed time for renewal up to one month it is up to 50 % of the license fees, 75 % for next one month and 100 % for up to one year and 150 % for after one year for every year.

(Byelaws regulating the trade can be accessed at <http://www.shimlamc.org/>)