

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

SEX SHOP LICENCES

GUIDANCE NOTES

INTRODUCTION

Subject to the provisions of Schedule 2 of the Civic Government (Scotland) Act 1982, no person shall in any area in which that Schedule is in effect use any premises, vehicle, vessel or stall as a sex shop except under and in accordance with the terms of a licence issued by the licensing authority for that area.

A Sex Shop means any premises, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating sex articles, as defined in the Act.

In terms of Schedule 2 of the Civic Government (Scotland) Act 1982 a licence under this Section is required to operate a Sex Shop within the Highland Council Area.

The following guidance notes relate to the licensing procedures in the Inverness Area of The Highland Council. Applications or enquiries relating to the use of premises as a Sex Shop in the Inverness Area should be made to Chief Executive's Office, Highland Council, Town House, Inverness, IV1 1JJ, or through any Highland Council Service Point.

Please note that as well as requiring a licence under the Civic Government (Scotland) Act 1982 in order to undertake this activity you may also require planning permission for the premises/land to be used.

Planning permission is separate to the licencing process and is administered by the Council's Planning Service. It is therefore recommended that you contact the Planning Service at eplanning@highland.gov.uk to check whether planning permission is required.

Depending on the circumstances, it may be possible that a licence can be granted without planning permission having first been obtained (if permission is required). However, should you commence operating the licensed activity without first having the required planning permission in place, you will be in breach of planning legislation and relevant planning enforcement action may be taken against you.

APPLICATION PROCEDURE AND PUBLICATION OF NOTICES

1. The appropriate application fee which can be found on the Council's website, see link below:

http://www.highland.gov.uk/info/1125/licences_permits_and_permissions/306/licence_application_fees

must accompany this application. Applicants should note the fee is nonrefundable in the event of the licence being refused or the application being withdrawn prior to determination.

2. A plan drawn to 1:1000 (metric) showing all fixtures and fittings in the premises must accompany this application. Plans are not required for renewals of existing licences unless alterations are proposed
3. An applicant for the grant or renewal of a licence shall, in accordance with the legislation, give notice of the application as follows:
 - (i) a notice shall in all cases be given by publishing an advertisement in a newspaper specified by the council, being a newspaper circulating in their area. The applicant shall supply a copy of that advertisement to the Council;
 - (ii) the above publication shall be not later than 7 days after the date of the application;
 - (iii) where the application is in respect of premises, notice of it shall in addition be displayed for 21 days, beginning with the date of the application, on or near the premises in a place where the notice can conveniently be read by the public;
 - (iv) every notice which relates to premises shall identify the premises and be in such form as the licensing authority may prescribe;
 - (v) every notice which relates to a vehicle, vessel or stall shall further specify where it is to be used as a sex shop;
 - (vi) an applicant for a licence which is to relate to premises shall, as soon as possible after the expiry of the period of 21 days referred to in (iii) above submit to the Council a certificate stating that he/she has complied with (iii) and (iv) above;
 - (vii) an applicant shall not be treated as having failed to comply with the above if the notice was, without any fault or intention of his/hers, removed, obscured or defaced before the 21 days referred to have elapsed, so long as he/she has taken reasonable steps for its protection and if need be, replacement. The required certificate in (vi) above shall state the relevant circumstances.

4 DETERMINATION OF AND DURATION OF LICENCES

- (i) **Full licences:** a licence will normally be issued after the elapse of 28 days from receipt of an application. In certain circumstances, eg where objections have been received, applications can take considerably longer to be

3

determined. A Licence shall remain in force, unless previously suspended or revoked, for a period of three years from the date when it comes into force, or such shorter period as the Council thinks fit. The Licence is not normally transferable.

- (ii) **Temporary Licences:** application may be made for a temporary licence which on being granted by the Council may have effect for a period not exceeding 6 weeks. A temporary licence is not capable of being renewed, but where application has also been made for a full licence for the same activity, the temporary licence, if granted, shall continue to have effect until the application for the full licence has been determined. Temporary licences may be granted earlier than the 28 day period specified for a full licence and the fee for a temporary licence can be found on the Council's website, see link below

http://www.highland.gov.uk/info/1125/licences_permits_and_permissions/306/licence_application_fees

- (iii) **Determination Period:** The Council have 6 months (9 months from 1st May 2017) in which to determine an application for a licence under the Civic Government (Scotland) Act 1982. If an application cannot be determined by officers using delegated powers and the 6 month (or, from 1st May 2017, 9 month) deadline is approaching then the application may require to be submitted to the Council's Highland Licensing Committee for their consideration. The Committee have the power to grant or refuse applications for a licence.