

**RYEDALE DISTRICT
COUNCIL**

**Sex Establishment
Application Form
&
Licence Guidelines**

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SEX ESTABLISHMENT LICENSING PROCEDURES

GUIDELINES GOVERNING APPLICATIONS FOR ANNUAL SEX ESTABLISHMENT LICENCES

INTRODUCTION

These guidelines have been developed to assist persons applying for Sex Establishment Licences in Ryedale district. They set out the Council's standards for determining applications for, and enforcement of, Sex Establishments in the Ryedale area.

Ryedale District Council has adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 with regard to sex establishments and will apply these guidelines to sex establishments in its area to ensure consistency of decision making. However, each application or contravention will be considered on its own merits so that individual circumstances, where appropriate, are taken into consideration.

Section 1 Interpretation

In these guidelines:

The masculine always includes the feminine and the singular includes the plural.

Act means the Local Government (Miscellaneous Provisions) Act 1982

Applicant means the applicant for the grant, variation, renewal or transfer of a licence as appropriate.

Application means an application for one or more of the following, as the case may be:

- a) grant of a licence;
- b) transfer of a licence;
- c) renewal of a licence;
- d) variation of a licence (including waiver or modification of a licence condition or to extend the licensed area, increase the accommodation capacity or extend the licensed hours).

Authorised Officer means an officer employed by Ryedale District Council and authorised by Council to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

Licence means any sex establishment licence that the Council can grant under the Act. This includes any associated consent or permission.

Licensee means the holder of such a sex establishment licence.

Objector means any person who has given Notice of Objection in accordance with Paragraph 10 (15) of the Schedule.

Observations means the giving of views by the statutory authorities such as the Police Authority.

Parties means the applicant(s) and any objector(s) to the grant of the application. In the case of revocation proceedings it means the licensee and the persons seeking revocation.

Premises shall mean any vehicle, vessel, stall or premises (which shall include any part thereof, installations, fittings, forecourt, yard or storage place in connection with any building) which is subject of a licence granted under the Schedule or for which a licence is sought.

Revocation means the revocation of a licence under Paragraph 17 of the Schedule or a proposal to revoke the licence.

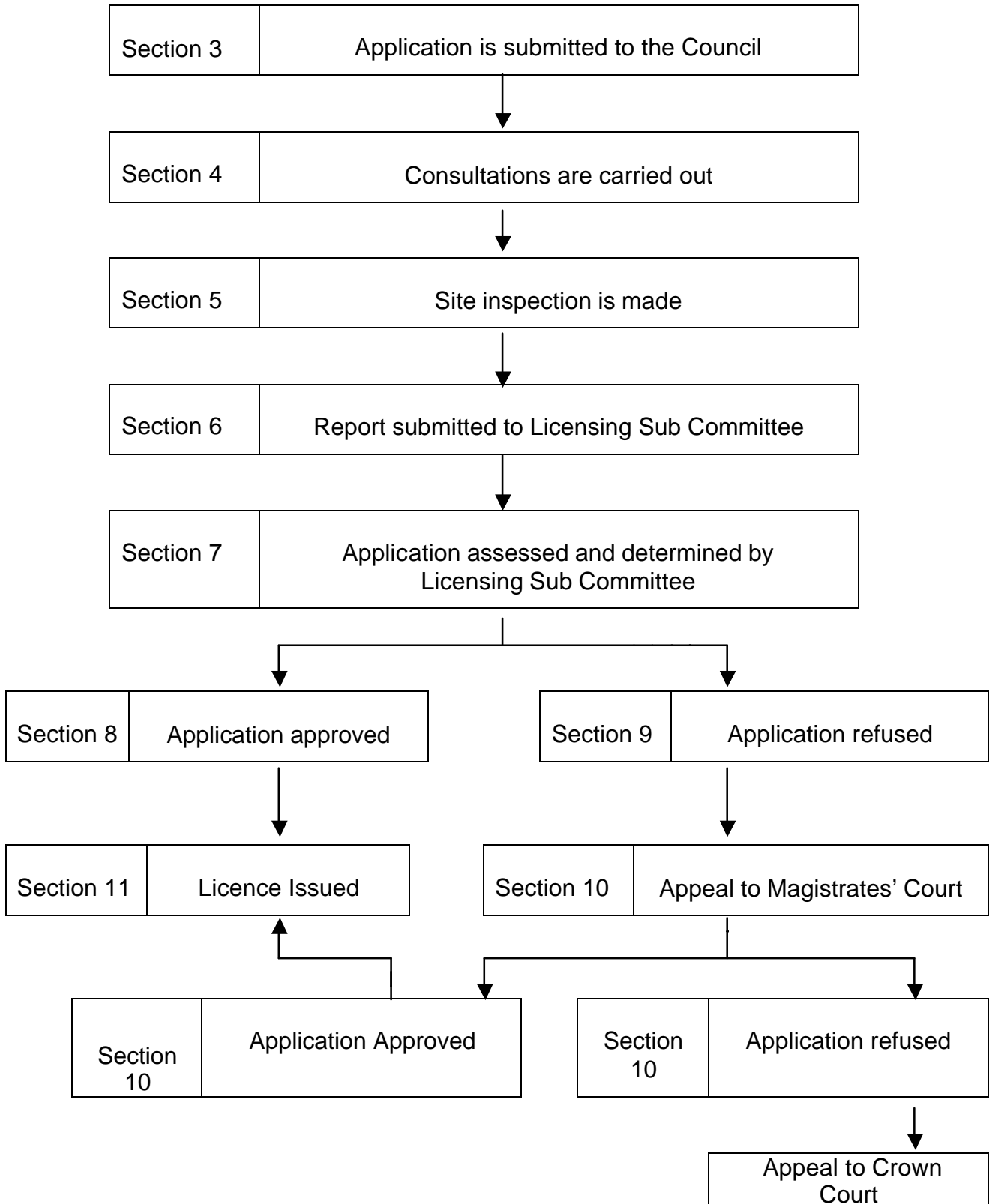
The Council means Ryedale District Council.

The Sub Committee means Ryedale District Council's Licensing Sub Committee.

The Schedule means Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

Section 2 Procedure for Determining Sex Establishment Licence Applications

The application and approval procedure comprises of the following stages. The descriptions on the side of the boxes refer to the explanatory notes in the subsequent sections of this guide:



Section 3 Submission of the Application

An application for a Sex Establishment Licence must be made to Ryedale District Council, in writing, on the form shown in **Appendix 1** and include:

- A site plan (scale 1:500) clearly outlining the locality in which the proposed establishment will be situated. The plan should clearly identify the proposed sex establishment by marking the site/premises boundary with a red line.
- A plan of the premises (scale 1:50) showing the part(s) of the premises that it is proposed to license. All areas requiring to be licensed should be outlined in red on the plan.
- Full Licence Fee and completed application form. This will be rejected and returned to the applicant if all the relevant boxes are incomplete or additional documentation not enclosed.
- Passport photographs, dates of birth and private addresses of all staff and directors employed in the licensed premises. The reverse of the photograph to contain name and date of birth and signature of applicant.

The application must be complete and all information provided otherwise it will be rejected.

Additionally, public notice of the application shall be given by:

- Displaying an approved notice in, on or near the premises, in a place where it can conveniently be read by the public, continuously for 21 days beginning with the date of the application. The format of the approved notice is given in **Appendix 2(a)**.
- By publishing an advertisement detailing the above notice in a local newspaper circulating in the area not later than 7 days after the date of the application, see **Appendix 2(b)**.
- By sending Ryedale District Council one complete copy of the newspaper containing the Advertisement to the Council as soon as is reasonably practicable.

The applicant must send a copy of the completed application form to the Chief Officer of North Yorkshire Police, Malton Police Station, Old Malton Road, Malton, North Yorkshire, YO17 7YD within 7 days of the application being made.

Help in completing the application form can be obtained from the Council's Licensing team on 01653 600666 or by contacting licensing@ryedale.gov.uk.

Section 4 Consultations on Applications Made

Before a Sex Establishment Licence is granted or renewed the applicant has to serve a copy of the application on the Licensing Officer of North Yorkshire Police. Further, a Notice of the application has to be displayed on the premises for 21 days and another Notice advertised in a local newspaper, this forms the necessary consultation required. Details of all such applications will be posted on the Council's website at www.ryedale.gov.uk for residents and local people to comment on.

Section 5 Inspection of Sex Establishments

On receipt of an application the premises will be visited and inspected by an Authorised Officer of the Council to determine compliance with the Sex Establishment Licence conditions given in **Appendix 3**. A report will be prepared for submission to the next available Sub Committee and the applicant will be informed in writing of the referral of the application to the Sub Committee and notified of the date when the application will be considered.

Section 6 Report Submitted to the Licensing Sub Committee

Following inspection of the proposed establishment a report will be prepared for consideration by the Council's Licensing Sub Committee. All licensing applications shall be referred to the Council's Sub Committee.

If objections are received against the granting of a Sex Establishment Licence details will be referred to the designated meeting of the Sub Committee for consideration and determination of the application. Where the Sub Committee refuse to grant, renew or transfer a licence, they shall, if required to do so by the applicant or holder of the licence, give him a statement in writing of the reasons for their decision within 7 days of his requiring them to do so.

Persons making written objections will also be informed of a decision to refer an application to the Sub Committee and notified of the hearing date of the application. The Council shall not, without the written consent of the person making the objection, reveal his name or address to the applicant.

Sections 7 & 8 Determining and Granting an Application

In determining applications for sex establishments, the Sub Committee shall have regard to the relevant matters of the Schedule shown in **Appendix 4** and Licence Conditions contained in **Appendix 3**. Each case though will be assessed on its merits and individual circumstances where appropriate, may be taken into consideration.

The Sub Committee has been established to consider applications, hear objections and appeals in relation to licensing matters. The Sub Committee consists of three elected members of Ryedale District Council and is supported by the Council's Solicitor and Licensing Officer. Sub Committee meetings are normally held in public unless there are matters to be considered that are of a confidential nature.

The role of the Sub Committee is to:

- Determine applications, or
- Hear appeals from applicants against the imposition of a condition (see Section 9)

Once arrangements have been made for the application to be heard by the Licensing Sub Committee, the applicant will be advised, in writing, of the date, time and place where the

application will be heard. The Council will endeavour to have applications heard as quickly as possible.

The applicant will be expected to attend the hearing and can be accompanied by a Solicitor, or supported by a friend or colleague. The Licensing Sub Committee will follow a set procedure that will be notified to the applicant in advance of the meeting, along with any officer reports that will be presented at the meeting.

In determining an application the Licensing Sub Committee will consider presentations from the applicant and the Council's Licensing Officer. Either side may use witnesses and supporting documentation may be submitted to the Licensing Sub Committee for consideration.

The Licensing Sub Committee will consider all the evidence presented to it during the hearing and members may ask questions of officers and the applicant. After hearing the evidence presented to it, the Licensing Sub Committee will retire and come to a decision on the application. When a decision has been reached the Sub Committee will inform the applicant of their decision and the reasons for coming to that particular decision. The decision of the Sub Committee will be confirmed, in writing, to the applicant within 5 working days of the meeting at which the application was considered.

Where objections have been raised to the granting of a Sex Establishment Licence the Licensing Sub Committee will consider the objections made. Persons who have raised objections to the application will be allowed the opportunity to address the Sub Committee and ask questions relating to the application. Letters of objection that have been received by the Council will be circulated to members of the Sub Committee in advance of a meeting where a contested application is being considered. The letters of objection will also be sent to the applicant but without any information that would identify the person submitting the objection. The applicant will be given a broad indication of the proximity of the objector's property in relation to the proposed sex establishment.

The Licensing Sub Committee will always strive to ensure that when it is considering an application that all persons get a proper and fair hearing through:

1. Considering each case on its merits.
2. Using these guidelines to assess applications where it is felt appropriate.
3. Dealing with the appeal in a balanced and impartial manner.
4. Ensuring that the rules of natural justice are applied in any hearings held.
5. Giving a person making an appeal, a reference or an objection sufficient opportunity to present their case, ask questions of officers and members of the Panel and present information for consideration in support of their appeal or objection.

When a Sex Establishment Licence is granted by the Licensing Sub Committee, the Licence will be provided to the applicant as soon as possible.

Section 9 Criteria for Refusal of an Application

The grounds for refusal are given in **Appendix 4**; the following criteria will be considered when determining an application.

The Relevant Locality

Paragraph 12 (5) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 defines the relevant locality as:

- a) in relation to premises, the locality where they are situated, and
- b) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment.

The local authority is entitled to consider the relevant locality and to determine the number of sex establishments suitable for it. That number can be nil. The locality cannot include the whole of the District. The relevant locality may cover the area of a ward or, alternatively the local authority may wish to consider suitable from the applicant premises or some other nearby landmark as comprising the relevant locality.

In assessing the locality each case will be considered on its merits.

The Use to Which Premises in the Vicinity are Put

It may be inappropriate to site a sex establishment in the vicinity of certain types of premises such as those used for religious purposes and frequented by children and young people. These may include Schools, Youth Clubs, Churches, Cemeteries, Chapels, Social Clubs, for example. 'Vicinity' is not defined in the Schedule but in other statutory provisions has been defined as, 'the state of being near in space'.

The Layout, Character or Condition of the Premises

Premises or part of the premises may be unsuitable to be used as a sex establishment due to their physical layout. For example, a basement may have limited access rendering it unsafe or unsuitable and therefore it may be appropriate to licence the ground floor only.

The use of premises can be considered in the context of the character of a building or location. The use of the whole or part of a building or location may not be in keeping with the character of that building or location.

Section 10 Appeals Against Decisions

The Local Government (Miscellaneous Provisions) Act 1982, Section 27 permits appeals against the decisions of the Council in relation to Sex Establishments. Appeals will be heard in the first instance by a Magistrates' Court. An appeal should be made within 21 days of the decision of the Council to Scarborough Magistrates, Magistrates Court, Northway, Scarborough.

An appeal can be made in the following circumstances:

1. Refusal of an application for the grant, renewal or transfer of a licence.
2. Refusal of an application to vary terms, conditions or restrictions on or subject to which any licence is held.
3. A grievance relating to any term, condition or restriction on or subject to which a licence is held.
4. Revocation of a licence.

A person wishing to appeal against a Council decision on a Sex Establishment Licence is strongly advised to seek assistance from a Solicitor, prior to commencing action in a Court of Law.

Section 11 Issue of Sex Establishment Licences

Sex Establishment Licences will be issued for a maximum period of 12 months following payment of the full fee and will be renewable on the date specified in the Licence. Cheques should be made payable to 'Ryedale District Council'.

Fees

The full fee for an annual licence for the current financial year is £6,000

Annual Licence Fee	-	£4,000
Variation Fee	-	£4,000
Transfer Fee	-	£550
Change of Name	-	£50

A fee of £50 will be made for replacement of documentation, dealing with dishonoured cheques and refunding fees for surrendered or revoked licences. If a cheque is dishonoured by a bank this will result in the revocation of the Sex Establishment Licence issued by the Council unless satisfactory arrangements are made for payment of the outstanding fees is made within 5 working days of the initial contact with the Council.

An administration fee of 50% will be levied on licence applications that are refused or withdrawn.

The fees are reviewed annually and any changes are made from 1 April each year.

Section 12 Enforcement of Sex Establishments

Ryedale District Council will actively enforce the provisions of the Local Government (Miscellaneous Provisions) Act 1982 in relation to sex establishments within its area in a fair and consistent manner. In doing so all enforcement activities will comply with the Department's Enforcement Policy.

The following principles will be adhered to when carrying out street trading enforcement activities:

Transparency/Helpfulness: Transparency and helpfulness mean providing information and advice in plain language and assisting dutyholders to understand what is expected of them, and what they should expect from the Council as an enforcing authority.

It will be made clear to the duty holder who, within the Council, is dealing with the matter in question. It also means making clear to duty holders what is required of them. It means distinguishing between statutory requirements and advice or guidance about what is desirable but not a legal requirement. Further, the Council will strive to provide a courteous and efficient service to its customers.

Proportionality: Proportionality means relating enforcement action to the risks. Those whom the law protects, and those on whom it places duties expect that action taken by the Council to achieve compliance should be proportionate to any risks to health and safety, and to the seriousness of any breach, which includes any actual or potential harm arising from a breach of the law

Consistency: Consistency of approach does not mean uniformity, it means taking a similar approach to similar circumstances to achieve similar ends. The Council will carry out its duties in a fair, equitable and consistent manner. Where Authorised Officers are expected to exercise judgement in individual cases, there will be arrangements in place to promote consistency, including effective arrangements for liaison with other Authorities and enforcement bodies.

Targeting: Targeting means making sure that the inspection and associated enforcement action are targeted primarily towards those activities which give rise to the most serious risks, or where the hazards are least well controlled, and that action is focussed on those who are responsible for the risk and who are best placed to control it.

Complaints Against the Service

Ryedale District Council has an agreed procedure for dealing with complaints about the services it delivers. If you wish to make a complaint you should, in the first instance, contact The Environmental Health Manager at the Council Offices, Old Maltongate, Malton, North Yorkshire, YO17 7HH, telephone 01653 600666.

If the matter cannot be resolved advice will be given on how to further your complaint under the Council's Complaints Scheme.

Licensing Team
 Environmental Health Services
 PO Box 67
 Ryedale House
 Old Malton Road
 Malton
 YO17 7ZG

Appendix 1

For Office Use	
Licence Ref. No.	
Visited	
Officer	
Licence Issued	

Local Government (Miscellaneous Provisions) Act 1982
 Please complete in **BLOCK CAPITALS** and **BLACK INK**

Form of Application for a Sex Establishment Licence

SECTION A – ABOUT THE APPLICANT	
Is the applicant:	a) An individual , b) A partnership or other unincorporated body , c) A body corporate ,
Give the full name of the applicant(s) or body applying for the licence. If an individual or partnership, please state any previous name(s) and date name changed	
Telephone number on which the applicant can be contacted during office hours	
Address to which any communications for the applicant are to be sent	
Applicants permanent address. If a company, please give the registered or principal address	
If the applicant is a company, please supply the following information on a separate sheet in respect of each Director and persons who will manage or otherwise be involved in running the establishment or who have an interest/will benefit	Forename, Surname, Former Names (and date name changed), Permanent Address, Date of Birth, Place of Birth.
What is the nature of the applicant's interest in the premises? Please state whether it is:	Freehold † Leasehold †
If the applicant's interest in the premises is leasehold, please supply the following information:	a) Is the lease headlease ^ underlease? ^ b) Landlord's name and address:
Has the applicant been resident in the United Kingdom throughout the period of 6 months proceeding the date of this application?	Yes ^ No ^

<p>Does the applicant or any persons named in this form have any Convictions/Cautions?</p> <p>If the answer to the above is yes, please give details below:</p>	<p>Yes ^ No ^</p>
--	----------------------

Convictions						
Forenames	Surname	Former Name (if any)	Court	Date	Offence	Penalty or Sentence

Cautions						
Forenames	Surname	Former Name (if any)	Court	Date	Offence	Penalty or Sentence

SECTION B – ABOUT THE PREMISES

Trading name, address, telephone number and internet address (where applicable) of premises to be licensed	Name:
	Address:
	Tel: Internet address:
Part of premises to be licensed (e.g. ground floor, first floor etc)	
If only part of the premises are to be used, to what use are the other parts of the premises put?	
Please state the name(s) of the person(s) responsible for running the part(s) of the premises that are <u>not</u> to be used as a sex shop.	
If the premises are already used as a sex establishment, please give the name and address of the persons or body who now operate the business, and the date on which the premises were first used as a sex establishment	
Is the application in respect of a premises, vehicle, vessel or stall?	Premises ^
	Vehicle ^
	Vessel ^
	Stall ^
If the application is in respect of a vehicle, vessel or stall, please state where it is to be used as a sex establishment	

SECTION C – ABOUT THE LICENCE

FIRST APPLICATION Choose this option if this is the first time this premises has been licensed or if the previous licence held by the premises has lapsed. You MUST provide a copy of a plan of the premises with the application to enable it to be processed	
RENEWAL APPLICATION Choose this option if you already hold a licence for the premises that is due to expire shortly	
TRANSFER APPLICATION Choose this option to transfer the licence from one licence holder to another	
Category of licence required	Sex Shop ^ Sex Cinema ^

SECTION D – ABOUT THE BUSINESS

Under what name is or will the business be known?		
If the application is for a sex shop, state whether any part of the premises will be used for displaying films, video recordings or other moving pictures. If yes, state whether cubicles are to be used for viewing, and if so, how many.		
What articles are to be offered for sale?		
What advertisements or displays are to be exhibited? Please indicate size(s) of proposed displays or advertisements		
What means are to be taken to prevent the interior of the premises being viewed by passers by?		
State which days and hours you intend to open the premises	Monday	
	Tuesday	
	Wednesday	
	Thursday	
	Friday	
	Saturday	
	Sunday	

SECTION E – OTHER PARTICULARS TO BE PROVIDED

A passport sized photograph of each Director and member of staff who will operate the premises. The reverse of the photographs should state the name of the individual pictured (in block capitals), their date of birth and the signature of the applicant.	^
A site plan, with the premises outlined in red – Scale 1:500	^
Scale plan of the premises (1:50) in respect of which the licence is sought including all means of ingress and egress to an from the premises, parts used in common with any other building, and details of how the premises lie in relation to the street.	^
A complete copy of the newspaper in which the notice of the application has been published (this must be sent within seven working days of making the application)	^

SECTION F – DECLARATION

I/We enclose the requisite fee	^
I/We confirm that a copy of this application has been served on the Licensing Police Officer, North Yorkshire Police, Malton Police Station, Old Malton Road, Malton, YO17 7YD within 7 days of the application being submitted	^
I/We confirm that a notice publicising this application will be displayed for 21 days beginning with the date of the application on or near the premises and in a place where it can conveniently be read by the public	^
I/We confirm that a Notice of application has been given by publishing an advertisement in a Local Newspaper circulating in the local area. The publication of the notice shall not be later than seven days after the date of application	^

DECLARATION BY APPLICANT FOR LICENCE

I understand that any person who, in connection with an application for the grant, renewal or transfer of a licence makes a false statement which he knows to be false in any material respect, or which he does not believe to be true, shall be guilty of an offence punishable on summary conviction by a fine not exceeding £20,000.

I declare that the information I have given in this form is true and complete in every respect.

Where the application is made on the behalf of a Limited Company, the Company Secretary or Director(s) should sign this form, In the case of a Partnership each Partner should sign.

Signed		Signed	
Name		Name	
Capacity		Capacity	
Date		Date	

**LOCAL GOVERNMENT (MISCELLANEOUS
PROVISIONS) ACT 1982**

SCHEDULE 3-CONTROL OF SEX ESTABLISHMENTS

**APPLICATION NOTICE FOR THE GRANT OF A SEX
ESTABLISHMENT LICENCE**

Application has today been made to Ryedale District Council in accordance with Section 2 of the Local Government (Miscellaneous Provisions) Act 1982 for a Sex Establishment Licence in respect of the premises named below.

Address of Premises

Signature of Applicant

Name of Applicant

Date

Any objections to this application should be made not later than 28 days after the date hereon in writing to:

**The Licensing Team
PO Box 67
Ryedale District Council
Ryedale House
Old Maltongate
Malton
North Yorkshire
YO17 7ZG**

This notice to be prominently displayed on the outside of the premises for a period of twenty-one days after the date hereon.

SEX ESTABLISHMENT LICENCE

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

APPLICATION FOR GRANT OF A LICENCE

Take notice that on

I/We

Of

Made application to Ryedale District Council for the grant of a sex establishment Licence at (address of proposed premises):

Any objections to this application should be made to :

**The Licensing Team
PO Box 67
Ryedale District Council
Ryedale House
Old Maltongate
Malton
North Yorkshire
YO17 7ZG**

Within 28 days from the date of this advertisement stating in general terms the grounds of objection.

**STANDARD CONDITIONS APPLICABLE TO
LICENCES FOR SEX ESTABLISHMENTS**

Notes:

- i. 'The Council' shall mean Ryedale District Council.
- ii. 'Sex Establishment', 'sex cinema', 'sex shop' and 'sex article', shall have the meanings given them in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.
- iii. 'Authorised officer' means an officer employed by Ryedale District Council and authorised by Council to act in accordance with provisions of the Local Government (Miscellaneous Provisions) Act 1982.
- iv. 'Premises' shall mean any vehicle, vessel, stall or premise (which shall include any part thereof, installations, fittings, forecourt, yard or storage place in connection with any building) which is subject of a licence granted under Schedule 3 aforesaid.
- v. 'Special Conditions' shall mean any terms, conditions or restrictions contained or referred to in the Schedule to a licence granted under Schedule 3 aforesaid.
- vi. 'Licence' means any sex establishment licence that the Council can grant under this Act. This includes any associated consent or permission.
- vii. 'Licensee' means the holder of a sex establishment licence.
- viii. These conditions may be dispensed with, added to or modified by the Council in any special case.
- ix. Where in these rules there is any reference to the consent of the Council being required, such consent may be given on such terms and conditions and subject to such restrictions as may be so specified.
- x. If the licensee wishes any of the terms of the licence to be varied, an application must be made to the Council.

- | | | |
|----------------------------------|----------|---|
| Exhibition of the Licence | 1 | The licence or a clear copy shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises, the police, the fire authority and authorised officers of the Council. A copy of the Conditions attached to the Licence shall be kept on the premises and be available for inspection by an Authorised Officer of the Council, or the Police or Fire Authority. |
| Hours of Opening | 2 | <ul style="list-style-type: none"> a) Except with the written consent of the Council, the premises shall not open to the public before 09:00 and shall not be kept open after 21:00. b) Except with the written consent of the Council, the premises shall not be open to the public on Christmas Day or any Bank Holidays. |
| Conduct of the Premises | 3 | <ul style="list-style-type: none"> a) No change from a sex cinema to sex shop or a sex shop to a sex cinema shall be made without the written consent of the Council. b) No sex articles or other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sex cinema. c) All sex articles and other things displayed for sale, hire, exchange or loan within the premises shall be clearly marked to show the price being charged. d) All printed material offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect shall be displayed in a conspicuous position within the premises. e) No film, digital versatile disc (DVD) or video recording (or computer game) shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to the effect. f) The licensee or any other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation or touting from the premises, immediately outside the premises nor allow the premises to be used by prostitutes. |

**External
Appearance**

- 4 a) The licensee shall exhibit on the outside of the premises the name of the shop, capable of being enclosed by a rectangle, a maximum of one square metre in area, consisting of the words 'Adult Shop' or such other name as is agreed by the Licensing Authority. Shop names that include the word 'Sex' or have a direct sexual connotation shall not be permitted.
- b) There shall be displayed in each entrance or doorway to the licensed premises, in a prominent position so as to be readily visible to any person approaching the premises with a view to entering therein but without having to enter, a notice prohibiting entry to the premises of all persons under 18 years of age. The notice shall contain the following words and no others; -

“WARNING”

“NO ADMITTANCE TO PERSONS UNDER 18
YEARS OF AGE”

The word “WARNING” must appear as a heading and no pictures or other matter shall appear on the notice.

- c) No other words or signs, or any displays or advertisements, shall be displayed on the outside or in the vicinity of the premises except those mentioned in conditions 4a), and 4b) above or otherwise approved by the Council in writing.
- e) The licensee shall ensure that no form of loudspeaker or sound amplification equipment is sited on or near the exterior of the licensed premises or in or near any foyer, doorway, window or opening to those premises.
- f) The entrance to the premises shall be of a material or covered with a material which will render the interior of the premises invisible to passers by.
- g) Windows and any form of openings to the premises other than entrances shall either be obscured by blinds, or a material approved by the Council. Door entrances shall also be obscured by blinds or material approved by the Council so as to prevent any member of the public from seeing through to the shop.

State, Condition and layout of the premises

- 5
- a) External doors shall be closed at all times other than when persons are entering or leaving the premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
 - b) The premises shall be fitted with an inner entrance door so that no part of the interior of the premises or any of the contents of the premises shall be visible when persons are entering or leaving the premises. A Notice shall be prominently displayed on the inner door stating: "Persons passing beyond this Notice will find material on display which they may consider indecent" and "Strictly no admittance to persons under 18 years. This premises operates a Challenge 21 Policy and persons under the age of 21 shall be required to show proof of their age."
 - c) No access shall be permitted through the premises to any other premises adjoining or adjacent except in the case of an emergency.
 - d) Any facilities for previewing films, video recordings or other similar material shall be controlled and monitored at all times by the licensee.
 - e) No alterations (including temporary alterations) shall be made to the structure and installations of the premises, without the prior written consent of the Council. This condition shall not require notice to be given in respect of routine maintenance works. Where there is any doubt the licensee shall seek advice from the Council.
 - f) Where works necessitate the premises being closed for a long period of time, the premises shall not reopen for the purpose of the licence, until the licensee has been notified in writing by the Council of the satisfactory completion of the work.
 - g) Lighting in all parts of the premises shall be a level approved by the Council and shall be in operation continuously during the hours when the sex shop is open to the public.
 - h) All parts of the premises shall be kept in a clean and wholesome condition to the complete satisfaction of the Council.

Management of the Premises

- 6
- a) The licensee, or a responsible person nominated by him and approved prior to employment in writing by the Council for the purpose of managing the sex

establishment, ('the Manager') shall have personal responsibility for and be present on the premises at all times when the premises are open to the public. Any such nomination shall be produced on demand to an authorised officer of the Council or police.

The licence holder shall ensure that any person nominated by him under the above: -

- (i) Has been provided with a copy of the conditions relating to the premises and is fully conversant with them;
 - (ii) Is in possession of a written nomination referred to above at all times when they are in charge of and present on the premises.
-
- b) A passport sized photograph of each Director (where the licensee is a body corporate or an incorporated body) and member(s) of staff who will operate the premises shall be provided upon application. The reverse of the photographs shall state the name of the individual pictured, their date of birth and the signature of the applicant. The Council shall be informed of any changes of staff or directors and shall be provided with photographs as above.
 - c) Where the licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such details as the Council may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
 - d) The name of the person responsible for the management of the premises, whether the licensee or manager, shall be displayed in a conspicuous position within the premises throughout the period during which he is responsible for the conduct of the premises.
 - e) The licensee shall retain control over all parts of the premises and shall not let, licence or part with possession of any part of the premises. The Council must be immediately notified in the event that any part of the premises is affected by the termination of a lease or other event affecting the licensee's control of the premises.
 - f) The licensee shall ensure that the public is not admitted to any part or parts of the premises that has

not been approved by the Council.

- g) No person under the age of 18 shall be admitted to the premises and a Notice to this effect, in accordance with condition 4b) shall be displayed on the outside of the premises.
- h) The licensee shall operate a Challenge 21 Policy and persons under the age of 21 shall be required to show proof of ID. A notice to this effect, in accordance with Condition 5b) shall be displayed on the premises.
- i) The licensee shall not employ any person under 18 years of age in the business of the establishment.
- j) All members of staff shall be easily identifiable as such. The licensee shall ensure that during the hours the sex shop is open for business, every employee wears an identifying badge, approved by the Council, indicating their full name and that they are an employee of the premises.
- k) The Licensee shall at all times keep and maintain at the licensed premises a written record of the names, addresses, and dates of commencement and termination of employment of all persons employed within the licensed premises, whether upon a full or part time basis and shall, upon request by an authorised Officer of the Council, make such records available for inspection to them.
- l) Where there are any changes of persons employed within the licensed premises, whether upon a full time or part time basis, the licensee shall provide a photograph of such personnel in line with condition 6b) above.
- m) The licensee shall be responsible for ensuring compliance with these and any special conditions of the licence and shall be held responsible for any breach thereof.
- n) The licensee shall comply with all statutory provisions and any regulations made thereunder.

Safety and Security

- 7 a) The licensee shall install a CCTV system covering all of the licensed area. This system shall be linked to a date and time recording facility and the system shall provide a high standard recording facility that will be admissible in court. This CCTV system shall be maintained in good working order and shall operate

at all time when the premises are open.

- b) The licensee shall comply with fire prevention and safety measures that the Council may require.
- c) The licensee shall maintain good order in the premises at all times and shall ensure that persons entering or leaving the licensed premises conduct themselves in an orderly manner and do not in any way cause annoyance to residents and persons passing by.

**Vessels/Stalls/
Vehicles**

8

- a) In the case of licensed premises that are a vessel or stall, the licensee shall not move the vessel or stall from the location specified in the licence unless 28 days' written notice is given to the Council of such intended removal. The Council may require the licensee to lodge such written application as it may deem appropriate and pay such a fee as it may deem reasonable in respect of such application . This requirement shall not apply to a vessel or stall, habitually operating from a fixed location, which is regularly moved (whether under its own propulsion or otherwise) from another place for storage purposes. This place must be specified in the licence and must not be used for the purposes for which the licence is granted and any other location than that which is specified in the licence.

**Variation of
conditions**

9

- a) The Council may at any time waive, modify or vary these conditions or impose additional conditions in any particular case as it thinks fit.
- b) Applications to vary conditions of the Licence shall be advertised by the licensee in the same manner as the application for the issue, renewal or transfer of the licence.

**Change of
Licensee Name**

10

- a) An application in respect of a change of licensee name shall be made to the Council in writing not less than 28 days prior to the proposed change and the Council shall have an absolute and unfettered discretion to permit or refuse such change.

General

11

- a) The licence hereby granted shall operate for one year from the date on the Licence, after which it will cease to be in effect unless an application for renewal is submitted in accordance with the Schedule of the Act, in the manner prescribed by the Council.
- b) The licence may be revoked by the Council if at any

time the holder is convicted of an offence of using the licensed premises, or other premises for which a similar licence has been granted, other than in accordance with the terms, conditions or restrictions of the licence or is convicted of any offence under any enactment defined in Paragraph 1 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

- c) The licensee shall afford all reasonable assistance to authorised officers in connection with these conditions and other licensing requirements.
 - d) In the event of a conflict between these conditions and any special conditions contained in a licence relating to a sex establishment, the special conditions shall prevail.
 - e) No refreshments of any kind shall be served, sold or consumed by potential customers visiting the licensed premises other than bona fide staff employed upon the premises.
 - f) No amusement or gaming machines of any kind, whether for prizes or otherwise shall be played at anytime upon the premises.
 - g) The grant of a Licence for a Sex Establishment should not be deemed to convey any approval or consent which may be required under any enactment, bye-law, Order or Regulation other than the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982 as amended.
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Grounds for Granting or Refusing the Application

1. Case-law has determined that the Licensing Sub Committee may not refuse a sex establishment licence solely on the ground that the establishment may cause offence. (*R v Coventry City Council ex parte Quitelynn Ltd (1985)*).
2. The local authority must refuse the licence on any of the grounds listed in **paragraph 12 (1)** of the schedule, as follows:
 - a) To a person under the age of 18;
 - b) To a person who is for the time being disqualified as being a licence holder whose licence has been revoked within the previous 12 months;
 - c) To a person, other than a body corporate, who is not resident in the United Kingdom or who was not so resident throughout the period of six months immediately preceding the date when the application was made; or
 - d) To a body corporate that was not incorporated in the United Kingdom, or
 - e) To a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal
3. The local authority may refuse to grant the licence where any of the following matters mentioned in **paragraph 12 (2) and (3)** applies:
 - a) The applicant is unsuitable to hold a licence by reason of having been convicted of any offence or for any other reason.
 - b) That if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself.

Members and officers will make diligent enquiries in these respects.

- c) That the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality.
- d) That the grant or renewal of the licence would be inappropriate, having regard to the
 - i. character of the relevant locality; or
 - ii. use to which any premises in the vicinity are put; or
 - iii. layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.