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| Form amended January 2023 | CIVIC GOVERNMENT (SCOTLAND) ACT 1982 SECTION 42 APPLICATION FOR THE GRANT/ RENEWAL\*  OF LATE HOURS CATERING LICENCE (INDIVIDUAL)  \*DELETE AS APPROPRIATE |

For use by West Lothian Council Licensing Team

|  |  |  |  |
| --- | --- | --- | --- |
| Date application received |  | Date application acknowledged |  |
| Date application complete |  | Deadline for initial decision |  |
| Date Fee paid |  | Deadline for final decision |  |
| Fee paid |  | Date to committee (if applicable) |  |
| Receipt number |  | Decision |  |
| Date to Police Scotland |  | Date of determination |  |
| Date to Scottish Fire & Rescue Service |  |  |  |

**Applicants should start completing the form below**

Please read the guidance notes before completing the application. Please make sure when submitting your application that you attach all the required documentation as outlined in the guidance notes. Incomplete applications submitted by post will be returned by second class mail which will delay the processing of your application. Otherwise we will return incomplete applications sent by email by email. There are separate forms for individuals and businesses so please check you are completing the correct form.

Question 1 – Applicant details

|  |  |  |  |
| --- | --- | --- | --- |
| First name | Middle name(s) | | Surname |
|  |  | |  |
|  |  | |  |
| Age | Date of birth | | Place of birth |
|  |  | |  |
|  |  | |  |
| Previous name(s) | | | National Insurance Number |
|  | | |  |
|  | | |  |
| Length of time resident in the UK | | Nationality | |
|  | |  | |
| Permanent address | | Previous address (only to be completed if you have lived at your address for less than 3 years) | |
|  | |  | |
|  | |  | |
|  | |  | |
|  | |  | |
|  | |  | |
|  | |  | |
| Post code | | Post code | |
| Time resident at current address | | E-mail address | |
|  | |  | |
| Telephone number | | Mobile number | |

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Question 2 – Day to day manager information (if applicable) (see note 5 of the attached guidance notes)

|  |  |  |  |
| --- | --- | --- | --- |
| Does the person named in Question 1 propose to carry on the day to day management of the YES/NO\*  Licence to which this application relates? If no please give manager’s details below. | | | |
|  |  | |  |
| First name | Middle name(s) | | Surname |
|  |  | |  |
|  |  | |  |
| Age | Date of birth | | Place of birth |
|  |  | |  |
|  |  | |  |
| Previous name(s) | | | National Insurance Number |
|  | | |  |
|  | | |  |
| Length of time resident in the UK | | Nationality | |
|  | |  | |
| Permanent address | | Previous address (only to be completed if you have lived at your address for less than 3 years) | |
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|  | |  | |
|  | |  | |
|  | |  | |
|  | |  | |
| Post code | | Post code | |
|  | |  | |
| Time resident at current address | | | |
| Telephone number | | Mobile number | |
|  | |  | |
|  | | E-mail address | |

Question 3 – Premises details

|  |  |
| --- | --- |
| (a) Address of premises to be licensed | Name:  Address:  Postcode:  Telephone no: |
| (b) List the types of food to be sold |  |
| (c) Will food be consumed on the premises | yes/no\* (\*delete as appropriate) |
| (d) State days of the week and hours between 11 pm and 5 am when it is proposed to sell food  (see guidance note 3) |  |

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Question 4 – Licence details

|  |  |
| --- | --- |
| Is this a renewal application? | yes/no |
| If yes, what is the licence number and renewal date? |  |
| Has anyone named in this application ever applied for and been refused a licence by any council? | yes/no |

|  |  |
| --- | --- |
| If yes, which council refused the licence and by whom was the application made? |  |
| When was it refused? |  |

|  |  |
| --- | --- |
| Has anyone named in this application ever held a licence which was suspended or revoked? | yes/no |

|  |  |
| --- | --- |
| if yes, which council suspended or revoked the licence? |  |

Question 5 – Further details (see note 7 of the attached guidance notes)

|  |  |  |  |
| --- | --- | --- | --- |
| Has anyone named in this application been convicted of any crime or offence or accepted a fixed penalty for an offence? Subject to the Rehabilitation of Offenders Act 1974, all unspent crimes and offences must be declared.  If answer is yes please provide details below, continue on separate sheet if necessary. | | | yes/no\* (\*delete accordingly) |
| Date of conviction/fixed penalty | Court where convicted or fixed penalty paid | Offence | Sentence/penalty |
|  |  |  |  |
|  |  |  |  |
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Question 6 – Site notice declaration (see note 13 of the attached guidance notes)

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| --- |
| Site notice  Does a site notice require to be displayed? yes/no\* (\*delete as applicable) |
| Declaration by applicant re site notice (\*\* delete whichever is not applicable)  \*\* (a) I declare that I shall, for a period of 21 days commencing with the date on which a fully completed application is submitted, display at or near the premises or site, so that it can conveniently be read by the public, a notice complying with the requirements of paragraph 2(3) of schedule 1 to the Civic Government (Scotland) Act, 1982.  or  \*\* (b) I declare that I am unable to display a notice of this application at or near the premises or site because I have no right of access or other rights enabling me to do so, but that I have taken the following steps to acquire the necessary rights, namely:-  Please detail the steps you have taken in the box below |
| but have been unable to acquire those rights |

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Question 7 - Declaration by applicant

I declare that the information given by me on this form is correct to the best of my knowledge and belief.

|  |  |  |
| --- | --- | --- |
| Date | Signature of applicant (hand written forms only) |  |
|  | Print name of applicant |  |

If the application is being signed by an agent on behalf of the individual please sign and complete the boxes below.

I declare on behalf of the applicant referred to in Question 1 of this form that the information given by me on this form is correct to the best of my knowledge and belief.

|  |  |  |
| --- | --- | --- |
| Date | Signature of agent (hand written forms only) |  |
|  | Print name of agent |  |
|  | Address of agent |  |

Privacy Statement – Data Protection

All personal information that you supply will be used to process your application in accordance with data protection law and the Civic Government (Scotland) Act 1982. In terms of the 1982 Act we are required to share this information with the following bodies:-

* Police Scotland; and where the licensed activity takes place within premises,
* the Scottish Fire and Rescue Service or other enforcing authority under Part 3 of the Fire (Scotland) Act 2005

We are required by law to protect the public funds we administer. Therefore in line with the National Fraud Initiative (NFI) we may also share your information with other bodies responsible for auditing or administering public funds in order to prevent and detect fraud.

Some of the information provided by you on this form will be held on a register which is available for inspection by members of the public.

Further information about how we handle your personal information, including how long we retain the information, information about the NFI and how you can complain about our handling of your information, is available in our Privacy Notice which can be found on the Licensing Team’s webpage <https://www.westlothian.gov.uk/licensing>. A copy of our Privacy Notice is available on request by contacting the Licensing Team, email: [licensingservices@westlothian.gov.uk](mailto:licensingservices@westlothian.gov.uk), telephone: 01506 281632.

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**NOTES FOR GUIDANCE – LATE HOURS CATERING APPLICATIONS**

1. In terms of Section 42 of the Civic Government (Scotland) Act, 1982, a late hours catering licence is required where premises are to be used between the hours of 11 pm and 5 am for the sale to the public of meals or refreshments for consumption on as well as off the premises. From 1 October 2012 a change in the legislation will take effect to replace the words “meals or refreshments” with the word “food”. Food is defined in terms of the Food Safety Act 1990 and has an extremely wide definition which covers all food and drink including water and chewing gum. Licences will therefore be required to sell any food between the hours of 11pm and 5am unless an exemption applies.
2. There are exemptions contained in Section 42 from the requirement to have a late hours catering licence. These are –

Section 42(4) –

“A late hours catering licence shall not be required in respect of –

1. the use as such of licensed premises within the meaning of the Licensing (Scotland) Act 2005; or
2. premises being used in accordance with a public entertainment licence”

The Council considers that unless a liquor licence or a public entertainment licence is in force which covers premises during the hours between 11pm and 5am a late hours catering licence will be required.

1. The Council’s policy in relation to late hours catering licences was amended on 7 August 2012 with immediate effect. The current policy is –
2. **Applications for LHC licences for petrol stations, supermarkets and retail shops**

In the absence of any objections, representations or adverse comments from either the public or the Council’s advisors, applications to licence the above premises between the hours of 11pm and 5am will be granted under delegated authority by the Chief Solicitor. All other applications will be referred to the Licensing Committee for a decision to be taken.

1. **Applications for LHC licences for takeaway or restaurant premises**

In the absence of any objections, representations or adverse comments from either the public or the Council’s advisors applications to licence takeaway or restaurant premises will be granted with a terminal hour of 1am for sales at the premises and 2am for deliveries. All other applications will be referred to the Licensing Committee for a decision to be taken.

4. A late hours catering licence will normally be granted for a period of 1 year.

5. If the applicant is a business or organisation there requires to be a day to day manager listed on the application form at question 2. If the applicant is an individual it is optional whether a day to day manager is appointed. There are separate forms for individuals and businesses so please check you are completing the correct form.

6. You are also advised that you may require to obtain planning permission for the use of your premises as a late hours catering establishment. If you do not have planning permission you should contact the Development Management Section at planning@westlothian.gov.uk.

7. Any person who in or in connection with the making of this application makes any statement which they know to be false or recklessly makes any statement which is false in a material particular shall be guilty of an offence and liable, on summary conviction to a fine not exceeding £2500. In relation to question 5, if there is doubt as to which offences are spent, applicants should seek legal advice before completing this form. Details of all of your convictions are available on payment of a fee from any police station. In terms of the Civic Government (Scotland) Act, 1982, for the purposes of this application the person signing the form is responsible for its contents. If the application is signed by an agent full details of that agent must be provided.

8.How do I submit my application?

Applications may be lodged in two ways -

* **By email:** You shoulddownload a copy of the most recent version of the form from our website and complete it by typing the information into the boxes on the form. You must sign the form to confirm that the information is correct by typing your name in the declaration section at Q7. The council accepts this as a signature. You should then check that the form has been fully completed and email it along with any supporting documentation to [licensingservices@westlothian.gov.uk](mailto:licensingservices@westlothian.gov.uk) in plenty of time before your licence is due to expire (if applicable). You will receive an emailed acknowledgement if it has been successfully delivered. Once your form and documents have been checked by the Licensing Team you will be emailed with information about how to make an online payment of the fee (unless no fee is applicable). Details of fees are available at the bottom of the webpage for each licensing scheme. Once your fee has been paid you will be emailed a site notice for immediate display, if applicable.
* **By post:** You shoulddownload a copy of the most recent version of the form from our website and complete it by hand and sign the form to confirm that the information is correct at the declaration section at Q7. You should then check the form has been fully completed and post it along with any supporting documentation and a cheque for the fee which is applicable to the Licensing Team, West Lothian Council, West Lothian Civic Centre, Howden South Road, Livingston EH54 6FF in plenty of time before your licence is due to expire (if applicable). Details of fees are available at the bottom of on the webpage for each licensing scheme.
* Please also provide a copy of the manager’s (if applicable) or the applicant’s photocard driving licence or passport and proof of their current home address i.e. recent utility bill. The address given in the application form must match the ID documentation.

**APPLICATIONS CANNOT BE SUBMITTED AT THE CIVIC CENTRE OR AT ARROCHAR HOUSE**

9. Section 42(5) of the Civic Government (Scotland) Act, 1982, provides that the Council may, on application made to them, exempt the use of premises requiring a late hours catering licence from the requirement to have such a licence:-

1. in respect of any particular occasion; or
2. during a specified period not exceeding 2 months in any period of 12 months.

Section 42(6) of the Act further provides that an exemption as described above may be granted by the Council subject to conditions.

10. Please ensure that this application is fully completed, the correct fee is enclosed and that all required documents are lodged along with it. Incomplete applications will be returned for amendment and resubmission which will delay your application.

11. Once your application is complete it will be processed. You will receive an acknowledgement once your application is complete. We will then contact you once vetting is complete. Most applications are determined within 60 days but applications which require to be referred to the Licensing Committee for a decision will take longer to be determined. In the event of an application being refused or withdrawn after being processed, no refund of the application fee paid will be made.

12. To contact the Licensing Team please email licensingservices@westlothian.gov.uk or call 01506 281632. Please note that if you are directed to our voicemail, please leave a message with your name and number and we will phone you back. Please note that the team cannot provide advice as to whether a licence is required. Applicants should seek legal advice from a solicitor or advice centre.

DISPLAY OF SITE NOTICES AND COMPLETION OF CERTIFICATES OF COMPLIANCE

1. Unless the application is for a temporary licence for a period of less than 6 weeks, a site notice must be displayed at or near the premises or site so that it can conveniently be read by the public, advertising your application. When your application is acknowledged as complete you will be required to send two photographs of the site notice to the Licensing Team. One photo must show the location of the notice and the other must be a close up clearly showing the wording of the notice.

The two notices are attached to these notes:

* Notice No. 1 provides a style of the notice to be displayed on the premises. It is called the Site Notice. This is a legal requirement.
* Notice No. 2 is a Certificate of Compliance and certifies that the applicant (or their agent) have complied with the legal requirements regarding the display of the site notice. This is a legal requirement.

**If your application is for a temporary Licence, this site notice is not required and the declaration (A) and (B) on page 4 of this application form should be deleted. The rest of these notes can be ignored.**

1. The site notice (notice no.1) must be

1. completed with details of the application and objection period (see 16 below)
2. displayed on the premises which are to be licensed for **at least 21 days** beginning with the date on which your fully completed application was lodged.
3. placed where it can be read easily by the public

**If your application is returned to you as it was not complete you will require to post a further site notice giving a further 21 day period for objections to be lodged.**

1. For applications for annual licences or for renewal of annual licences see the declaration section on page 4 of the form. You are required to delete (A) or (B) as appropriate.

Where declaration (A) is made, after the objection period has expired you must complete and send us the Certificate of Compliance with paragraph 2(2) of Schedule 1 to the Civic Government (Scotland) Act, 1982.

A style for such Certificate of Compliance is enclosed with this form (notice no.2).

Your application cannot be progressed until this certificate is received. If you have not displayed your site notice for the required 21 day period contact us and we will send you another one to display for a further period.

1. The Site Notice and Certificate of Compliance must contain the following information: -
2. The type of licence applied for.
3. The full name of the applicant. This may be an individual’s name or that of a company, partnership or organisation.
4. The home address of the applicant. Where a company, partnership or organisation is making the application the registered office of the company, or principal office of the partnership or organisation should be given.
5. The address of the premises to be licensed must be included even though the site notice must be displayed at that same address.
6. The site notice must be signed by the applicant or manager (in the case of a company, partnership or organisation) or an agent acting on the applicant’s behalf.
7. The date on which the site notice was first displayed should be clearly stated. The final date for the submission of objections or representations must be completed. This date is 28 days after the date of lodging of the application with the Council.
8. The Certificate of Compliance should only be signed and dated at the end of the objection period before it is returned to the Council and it should state quite clearly when the site notice was displayed. There has to be at least a period of 21 days between the two dates specified.

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If you have any difficulties completing either of these notices, please contact Licensing Team staff on 01506 281632 who will be pleased to help.

**THIS NOTICE MUST BE DISPLAYED FROM THE DATE THE APPLICATION WAS SUBMITTED TO THE COUNCIL**

**SITE NOTICE Notice No. 1**

**Civic Government (Scotland) Act, 1982**

**APPLICATION FOR THE GRANT/RENEWAL OF A:**

|  |
| --- |
| **TYPE OF LICENCE**:  See 16(1) |

**NOTICE IS HEREBY GIVEN THAT**

|  |
| --- |
| **NAME of Applicant (Individual, Company or Partnership):**  See 16(2) |

of

|  |
| --- |
| **ADDRESS of the above named applicant:**  See 16(3) |

has applied to the **WEST LOTHIAN COUNCIL** for the grant/renewal of a

..............................................................................................licence. See 16(1). A licence for a 1 year period has been sought. The address of the premises or site for which the licence is sought is:

|  |
| --- |
| **ADDRESS of Site**  See 16(4) |

Members of the public may object to this application or make representations concerning it. Any objection or representation must be made by letter or email and must give reasons for the objection or representation. The name and address of the person objecting or making representations must be stated clearly and any letter must be signed by that person or an agent authorised to act for them. Emails do not require a signature but must include a name and address. Objections or representations should be sent to the Licensing Team, Legal Services, West Lothian Council, West Lothian Civic Centre, Howden South Road, Livingston, West Lothian, EH54 6FF or emailed to [licensingservices@westlothian.gov,uk](mailto:licensingservices@westlothian.gov,uk) by \*....................................................insert date i.e. 28 days after application is submitted. See 16(6)

Any letters containing objections or representations should be either delivered by hand to the address given above or sent by Recorded Delivery mail to that address.

The Council can entertain late objections or representations provided a final decision has not been taken on the relevant application if it is satisfied there is sufficient reason why it is late. If a late objection or representation is made it must be accompanied by an explanation for that lateness.

|  |
| --- |
| Signed ………………………………… See 16(6) |
| Date notice posted (i.e.date application submitted) ……………….. ………... See 16(6) |

**THIS CERTIFICATE MUST BE COMPLETED AND RETURNED TO THE COUNCIL AFTER THE EXPIRY OF THE OBJECTION PERIOD**

**Certificate of Compliance Notice No. 2**

**Civic Government (Scotland) Act, 1982**

|  |
| --- |
| **NAME:**  See 16(2) |
| **ADDRESS:**  See 16(3) |

having made application to West Lothian Council for the grant/renewal of a:

|  |
| --- |
| **TYPE of LICENCE:**  Late Hours Catering Licence |

in respect of:

|  |
| --- |
| **SITE ADDRESS**:  See 16(4) |

HEREBY CONFIRM THAT I/WE have complied with the terms of Paragraph 2 of Schedule 1 to the Civic Government (Scotland) Act 1982, by displaying a notice at or near the above mentioned premises or site where it could be conveniently be read by the public for a period of 21 days from \*........................................insert date application was submitted [See 16(6)]

Signed: ............................................................[See 16(7]

Date of signature ......................................................... [See 16(7)]