

# MANUKAU CITY CONSOLIDATED BYLAW 2008

## CHAPTER 3

### BROTHELS<sup>1</sup>

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| <p>1. <b>Purpose</b></p> <p>1.1 This bylaw is made under Sections 145 and 146 of the Local Government Act 2002 and Sections 12 and 14 of the Prostitution Reform Act 2003 and Section 64 of the Health Act 1956.</p> <p>1.2 This Chapter of the Bylaw should be read in conjunction with the entire Manukau City Consolidated Bylaw 2008.</p> <p>1.3 The purpose of this Chapter of the Bylaw is to introduce control measures that are designed to manage the potential impacts of brothels on sensitive activities and to protect public health. It contains provisions which regulate the location of brothels. It also contains a licensing system to prescribe sanitary precautions and protect public health in respect of the use of brothels. This Chapter of the bylaw also regulates signs (including displays of models and mannequins) that advertise the existence or location of brothels.</p> <p>1.4 This Chapter of the Bylaw recognises that there are existing brothels in Manukau City and provides a timeframe for lawful brothels that are in existence at the passing of this bylaw to comply with the sign controls. All other parts of this Chapter of the Bylaw apply to all existing and new brothels as at the date the bylaw comes into force.</p> | <p><b>Purpose</b></p>             |
| <p>2. <b>Scope of the Bylaw</b></p> <p>2.1 Unless otherwise stated, and subject to the Transitional Provisions, this chapter of the Bylaw applies to all brothels in Manukau City.</p> <p>2.2 For the avoidance of doubt, all other relevant chapters of the Bylaw apply to brothels as appropriate.</p> <p><i>See Chapter 1 for general administration.</i><br/><i>See Chapter 19 for Temporary Signs.</i></p>  | <p><b>Scope of the Bylaw</b></p>  |
| <p>3. <b>Interpretation</b></p> <p>3.1 In this chapter of the Bylaw unless inconsistent with the context:</p> <p>(a) <b>BROTHEL</b> means any premises kept or habitually used for the purposes of prostitution; but does not include premises at which accommodation is normally provided on a commercial basis if the prostitution occurs under an arrangement initiated elsewhere. For the avoidance of doubt a small owner operated brothel as defined in the Prostitution Reform Act 2003 is a brothel.</p>   | <p><b>Definition of Terms</b></p> |

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<sup>1</sup> This bylaw will come into force on the 1st day of July 2004  
Adopted on 29 April 2004 (Minute No.CL/APR/612/04)  
Amended on 01 October 2008 for Council minute numbers CL/JUN/745/08, CL/JUL/1193/07 and CL/JUN/1027/07

- (b) **BUSINESS ZONE** means any land with a Business activity zoning in the District Plan.
- (c) **COMMERCIAL SEXUAL SERVICES** means sexual services that-
  - (a) involve physical participation by a person in sexual acts with, and for the gratification of, another person; and
  - (b) are provided for payment or other reward (irrespective of whether the reward is given to the person providing the services or another person)
- (d) **COMMUNITY FACILITY** means any building or land used for the purpose of providing for recreation centres, swimming pools, libraries, public halls, community house, marae, cultural centres, funeral parlour, children's playground located on a Council reserve, scout and guide dens.
- (e) **DISTRICT PLAN** means the Manukau Operative District Plan 2002 or any succeeding district plan prepared under the provisions of the Resource Management Act 1991.
- (f) **EDUCATIONAL FACILITY FOR CHILDREN** means any building or land used as a daycare facility, preschool, primary school, intermediate school, high school, kohanga reo, kura kaupapa or kura maori.
- (g) *deleted*
- (h) **PLACE OF WORSHIP MEANS** land and buildings primarily used for public and or private assembly of people primarily for worship.
- (i) **PROSTITUTION** means the provision of commercial sexual services.
- (j) **RESIDENTIAL ZONE** means any land with a residential activity zoning in the District Plan.
- (k) **RURAL ZONE** means any land with a rural activity zoning in the District Plan.
- (l) **SIGN** has the same meaning as in Chapter 19 of the Bylaw (includes every advertising device or display of advertising matter intended to attract attention and which, together with any frame or support structure is visible from a public place). For the purposes of this chapter of the Bylaw a sign includes any display or exhibit involving a human or mannequin model or other model or structure that is visible from a public place.
- (m) **THE BYLAW** means the Manukau City Consolidated Bylaw 2008.
- (n) **TRANSITIONAL PROVISIONS** means the transitional provisions set out in clause 9 of this Chapter of the bylaw.

3.2 Other terms used in this chapter are defined in the Bylaw at Chapter 1 General Administration.

#### 4. **Location of Brothels**

#### ***Location of Brothels***

- 4.1 This clause shall not apply to a brothel which was lawfully established under the provisions of the District Plan or pursuant to resource consent before 1 December 2003 provided that:
- (a) At the time of first licensing a copy of an existing resource consent or a certificate of compliance pursuant to section 139 of the Resource Management Act 1991 is produced confirming the location and operation of the brothel complies with the District Plan; and
  - (b) The brothel is located in a Business 4,5 or 6 zone.
- 4.2 Except as provided in clause 4.1 above, any brothel shall be located only in the Business 4, 5 or 6 zones; and in addition at the first time of licensing under this Chapter of the Bylaw shall not be located within 250 metres from the main public road entrance, or within sight of the main public road entrance of any educational facility for children, place of worship or community facility.
- 4.3 For the avoidance of doubt, any brothel is also subject to all requirements of the District Plan and the Resource Management Act 1991.

#### 5. **Signs**

#### ***Signs***

- 5.1 Where a business premises include a brothel no person may place or allow to be placed any sign on or in the building or structure that is visible from a public place and that advertises commercial sexual services, except in accordance with the following requirements:
- (a) The sign/s shall display only the name of the operator of the brothel business or, where the operator is a company the registered name of that company, the telephone number of the business, the street number, and (subject to clause 5.1.(b)) the trading name of the business.
  - (b) The sign shall not display words or images or models (human or mannequin) which in the opinion of the Council are sexually explicit, lewd or otherwise offensive; and the shape or form of the sign itself shall not convey an image which in the opinion of the Council is sexually explicit, lewd or otherwise offensive.
  - (c) The total area of signage shall not exceed 1m<sup>2</sup> in area.
  - (d) No sandwich board or other type of portable signs may be located off the site including on the adjoining road.
- 5.2 No person may place or allowed to be placed any signage that is visible from a public place and that advertises commercial sexual services on or in any building or structure other than in the Business 4,5 and 6 zones, and within the site at which commercial sexual services are offered.
- 5.3 All signs associated with brothels must comply with both this Chapter of the Bylaw and Chapter 19 Signs. If Chapter 3 and Chapter 19 are inconsistent, Chapter 3 will apply. All signs must also comply with the relevant rules in the District Plan.

**6. Brothels to be licensed**

***Licence***

- 6.1 No person shall operate, use or permit the use of premises as a brothel except pursuant to a licence issued by the Council.
- 6.2 Application for a licence shall be made by the operator of the brothel on the form provided. The application shall be accompanied by a an “operator of business of prostitution” certificate under section 35 of the Prostitution Reform Act 2003; or a statement that the brothel falls within the definition of a “small owner operated brothel” as defined in that Act.
- 6.3 A licence shall not be issued unless the premises concerned comply with all the requirements of this Bylaw and with all other statutory provisions governing its occupancy including the Resource Management Act 1991 and the District Plan.
- 6.4 Every licence shall be prominently displayed in a public part of the premises to which it relates.
- 6.5 Every application for a licence shall be accompanied by a fee of NZ\$200.00 or such fee as may be set from time to time pursuant to Section 150(3)(b) of the Local Government Act 2002.

**7. Hygiene and maintenance requirements**

***Hygiene and Maintenance***

- 7.1 No person shall operate or allow any premises to be operated as a brothel except in accordance with all of the following provisions.
- 7.2 The premises shall be constructed in accordance with such of the provisions of the Bylaws of the Council and the provisions of the Building Act 1991 as are applicable in the circumstances.
- 7.3 Every floor, shower area and paved area shall be properly graded and drained together with every wall and ceiling shall have smooth, impervious and washable surfaces.
- 7.4 The premises shall be adequately ventilated to the satisfaction of an inspector.
- 7.5 Where subdued lighting is used in the premises, a fixed secondary system shall be incorporated to provide illumination of not less that 300 lux at a distance of 900mm above the floor for the purpose of cleaning and inspections.
- 7.6 One wash-hand basin supplied with constant hot and cold water and equipped with a plug, soap and adequate hand drying facilities shall be provided for every toilet compartment.
- 7.7 A separate room or separate facilities for the storage of clothing and personal effects shall be provided for use by the staff.
- 7.8 Adequate lockers or separate facilities shall be provided for the storage of clean and soiled laundry, cleaning equipment and massage oil; such lockers to be separate from any area used for the manufacture, storage, preparation of food and drink.
- 7.9 A wash hand basin supplied and equipped in accordance with 7.6 above shall be so located as to be readily accessible for use by staff members providing commercial sex services and working in a cubicle or bedroom.
- 7.10 The premises shall be maintained in a state of good repair and in a clean and tidy condition.

- 7.11 Every pillow and mattress shall have a removable cover which shall be laundered after each use and as frequently as necessary to maintain it in a clean and hygienic condition.
- 7.12 Every towel after use or handling by a customer shall be immediately placed in a receptacle, separate from any clean towels, and shall be laundered.

**8. Requisitions**

***Remedial Action***

- 8.1 Where a brothel does not meet the hygiene and maintenance requirements of this Chapter of the Bylaw, the Council may serve notice on the owner or occupier of the premises to carry out, within a time stated in the notice, such remedial action as may be specified in the notice. Such notice may require the owner or operator of the premise to cease operations for a period set out in the notice.

**9. Transitional Provisions**

***Transitional Provisions***

- 9.1 Any brothel that was operating on the day this bylaw came into force, and that:
- (a) holds any resource consent that may be required for the site on which that brothel is located and for the signage on the site under the District Plan or any proposed District Plan ; or
  - (b) otherwise complies with the District Plan; or
  - (c) has existing use rights under the Resource Management Act 1991
- is exempt from compliance with the sign controls in clause 5 until the 30th of June 2005.
- 9.2 Any brothel that was operating on the day this Bylaw came into force which complies with the locational requirements of clause 4 must apply for a licence under clause 6 by 1 September 2004.