

RODNEY DISTRICT COUNCIL

RODNEY DISTRICT COUNCIL GENERAL BYLAW: 1998

CHAPTER 14

BROTHELS AND COMMERCIAL SEX PREMISES

1.0 PURPOSE

- 1.1 This chapter of the Bylaw is made pursuant to Sections 145 and 146 of the Local Government Act 2002 and Sections 12,13 and 14 of the Prostitution Reform Act 2003.
- 1.2 This chapter first came into force on 1st November 2004 and has been reviewed as required by Section 158(1) of the Local Government Act 2002 (the Act). This chapter as reviewed, came into force on 29 January 2010.
- 1.3 This chapter should be read in conjunction with the entire Rodney District Council General Bylaw 1998.
- 1.4 The purpose of this chapter is to introduce control measures to manage the potential impact of brothels, small owner-operated brothels and commercial sex premises on sensitive activities. It contains provisions that regulate the location of brothels, small owner-operated brothels and commercial sex premises and signs that advertise the existence or location of these activities.

2.0 SCOPE OF THE BYLAW

- 2.1 Unless otherwise stated, this chapter applies to all brothels and commercial sex premises in Rodney District.
- 2.2 For the avoidance of doubt, all other relevant chapters of the Bylaw apply to brothels and commercial sex premises as appropriate.
- 2.3 For the avoidance of any doubt, all brothels and commercial sex premises must also comply with the relevant statutes and regulations. Without limitation, this will include all requirements of the District Plan, and the Resource Management Act 1991. Obtaining resource consent does not avoid the need to comply with this chapter.

3.0 INTERPRETATION

- 3.1 The definitions of the terms denoted* are those in the Prostitution Reform Act 2003

BROTHEL*	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 made elsewhere.
BUSINESS OF PROSTITUTION*	Means a business of providing, or arranging the provision of, commercial sexual services.
COMMERCIAL SEX PREMISES	Means premises used as striptease clubs, rap parlours, massage parlours, adult sex shops or activities of a similar nature but does not include brothels.
COMMERCIAL SEXUAL SERVICES*	Means sexual services that: <ul style="list-style-type: none">(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.
INDUSTRIAL ZONE	Means any land with an Industrial activity zoning in the District Plan.
PLACES OF ASSEMBLY	Means, for the purposes of this chapter of the bylaw only, any building or land used for public and/or private assembly or meeting of people who have particular sensitivity to the sex industry and/or where activities are carried out that may be adversely affected by the provision of commercial sexual services nearby and includes Marae, libraries, churches, halls, clubrooms, community centres, schools, pre-

schools, sports fields and children's playgrounds.

PLACE OF WORSHIP	Means land and buildings for public and/or private assembly (refer to the definition of places of assembly) of people primarily for the purposes of worship.
PRE-SCHOOL	Means any educational or childcare facility provided for children under the age of five years, and includes kindergartens as defined in the Education Act 1964.
PRINCIPAL OCCUPIER	In the case of a small owner-operated brothel means: (a) the owner of the premises where the owner is resident on the premises; or (b) the tenant named in the tenancy agreement where the premises are rented.
PROSTITUTION*	Means the provision of commercial sexual services.
RESIDENTIAL ZONE	Means any land with a Residential activity zoning in the District Plan.
SCHOOL	Includes Primary Schools, Intermediate Schools, Composite Schools and Secondary Schools as defined in the Education Act 1964. For the avoidance of doubt, this includes private schools but does not include businesses providing after hours tuition to students.
SEX WORKER*	Means a person who provides any commercial sexual services, as defined in the Prostitution Reform Act 2003.
SANDWICH BOARD ADVERTISEMENT	Means any freestanding sign or structure with a notice affixed to it.
SMALL OWNER – OPERATED BROTHEL*	Means a brothel – (a) at which no more than 4 sex workers work; (b) where each of those sex workers retains control over his or her individual earnings from prostitution carried out at the brothel: and (c) is not managed by an operator as set out in Section 5 of the Prostitution Reform Act 2003
STREET WORKER	Any person who offers commercial sexual services in a public place

Other terms used in this chapter are defined in Chapter 1 – Bylaw Administration

4.0 LOCATION OF BROTHELS

- 4.1 No person may establish or operate a brothel other than a small owner-operated brothel:
- (a) On sites other than those in an industrial zone; and
 - (b) Within 75 metres of any existing brothel or a site set aside by any statutory process for this purpose; and/or
 - (c) Within 75 metres of any existing commercial sex premises or a site set aside by any statutory process for this purpose; and/or
 - (d) Within 200 metres of an existing pre-school or school or a site set aside by any statutory process for this purpose; and/or
 - (e) Within 200 metres of a place of worship or a site set aside by any statutory process for this purpose; and/or
 - (f) Within 200 metres of a place of assembly or a site set aside by any statutory process for this purpose; and/or
 - (g) Where the brothel premises have ground-floor street front displays or shop frontages.

- 4.2 Any brothel that is in existence prior to a pre-school, school, place of worship, place of assembly, or other brothel or commercial sex premise being established within the prohibited distance specified in Clause 4.1 of this chapter may continue to be carried on, provided that it was established under this chapter.
- 4.3 No person may establish or operate a small owner-operated brothel:
- (a) Other than in a location that is within 200 metres of an industrial zone; and
 - (b) Within 75 metres of any existing brothel or a site set aside by any statutory process for this purpose; and/or
 - (c) Within 75 metres of any existing commercial sex premises or a site set aside by any statutory process for this purpose; and/or
 - (d) Within 200 metres of an existing pre-school or school or a site set aside by any statutory process for this purpose; and/or
 - (e) Within 200 metres of a place of worship or a site set aside by any statutory process for this purpose; and/or
 - (f) Within 200 metres of a place of assembly or a site set aside by any statutory process for this purpose; and/or
 - (g) Where the brothel premises have ground-floor street front displays or shop frontages.
- 4.4 A small owner-operated brothel must also comply with the home occupation requirements in Section 16.8 of the District Plan.
- 4.5 Any small owner-operated brothel that is in existence prior to a pre-school, school, place of assembly, place of worship or other brothel or commercial sex premise being established within the prohibited distance specified in Clause 4.3 of this chapter may continue to be carried on, provided that it was established under this chapter.

5.0 STREET WORKERS

- 5.1 As the activities of street workers are not confined to a specific venue or premises, they are not regulated by this chapter. Street workers offer services for sale in a public place without invitation and as such these activities are controlled separately by Chapter 5 - Trading in Public Places and Chapter 8 – Public Places.
- 5.2 For the avoidance of any doubt, street workers offer services for sale without invitation and as such will be considered to be “hawkers” for the purposes of Chapter 5 - Trading in Public Places.

6.0 LOCATION OF COMMERCIAL SEX PREMISES

- 6.1 The locational requirements in Clause 6.2 are made under Section 145(a) and (c) of the Local Government Act 2002, for the purpose of protecting the public from nuisance and minimising the potential for offensive behaviour in public places.
- 6.2 No person may establish or operate a commercial sex premise:.
- (a) Within 75 metres of any existing brothel; and/or
 - (b) Within 75 metres of any existing commercial sex premises; and/or
 - (c) Where the premises have ground-floor street front displays or shop frontages.
- 6.3 Any commercial sex premise that is in existence prior to another brothel or commercial sex premise being established within the prohibited distance specified in Clause 6.2 of this chapter, may continue to be carried on, provided that it was established under this chapter.

7.0 SIGNS AND ADVERTISING

- 7.1 No person may place on or in any building or structure or any other place, or allow to remain in place, a sign that advertises a brothel and/or commercial sex premise and/or the provision of commercial sexual services and which:
- (a) Displays any information other than the name of the person who conducts the business or the registered name of the business; or
 - (b) Displays words or images or models (human or mannequin) which in the opinion of the Council, are sexually explicit, lewd or otherwise offensive; or
 - (c) Is illuminated by flashing lights or contains neon lighting;
 - (d) Is larger than 0.33m² in area.
- 7.2 Clause 7.1 does not absolve such business from complying with provisions in the District Plan or in Chapter 22 – Temporary Signs relating to signage.
- 7.3 The Council can require the owner or operator of a brothel or commercial sex premises to adjust or remove any sign that Council believes does not comply with the requirements of this chapter, Chapter 22 – Temporary Signs or the District Plan.
- 7.4 All brothels and commercial sex premise signs must display a clearly visible street number.
- 7.5 No sandwich board advertisements for brothels and/or commercial sex premises and/or the provision of commercial sexual services are permitted.
- 7.6 No signs advertising brothels and/or commercial sex premises that are located on a moving or stationary vehicle or trailer that is visible from a public place are permitted.
- 7.7 No person may, in any public place:
- (a) Invite or request any person to enter a brothel, small owner-operated brothel or commercial sex premises; or
 - (b) verbally advertise or distribute promotional material advertising a brothel, small owner-operated brothel or commercial sex premises.

8.0 LICENSING OF BROTHELS AND SMALL OWNER-OPERATED BROTHELS

- 8.1 The licensing requirements in Clauses 8.2 to 8.9 are made under Section 145(b) of the Local Government Act 2002, for the purpose of protecting, promoting and maintaining public health and safety.
- 8.2 No person shall operate, use or permit the use of premises as a brothel or small owner-operated brothel, except pursuant to a license issued by the Council.
- 8.3 Application for a license shall be made by the owner or operator of the brothel or in the case of a small owner-operated brothel, the principal occupier, on the form provided. The application shall be accompanied by an “operator of business of prostitution” certificate granted 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 the Act.
- 8.4 Prior to a license being issued or renewed, the premises shall be inspected by an authorised officer. No license shall be issued or renewed unless the premises concerned:
- (a) complies with all the requirements of this chapter;
 - (b) complies with all other statutory provisions governing its occupancy, including the District Plan; and
 - (c) is not in breach of any relevant lease agreements.

- 8.5 Every license shall be prominently displayed in a public part of the premises to which it relates at all times that the premises is being used for the business of prostitution.
- 8.6 Every application for a license shall be made by the owner or operator of the premises or in the case of a small owner-operated brothel, the principal occupier, and be accompanied by a fee as may be set from time to time pursuant to Section 150(3)(b) of the Local Government Act 2002.
- 8.7 The Council may grant a license for a brothel for a period set out in the license. No license shall be for a term of more than 12 months.
- 8.8 Every license shall be personal to the licensee holder and the specified premise. If the license holder or the premises to which a license applies changes, the license shall lapse.
- 8.9 Council can revoke any license for any premise that fails to comply with a requisition notice issued under Clause 10.1 and within the period set within any such notice.

9.0 HYGIENE AND MAINTENANCE REQUIREMENTS

- 9.1 The hygiene and maintenance requirements in Clauses 9.2 to 9.12 are made under Section 145(b) of the Local Government Act 2002, for the purpose of protecting, promoting and maintaining public health and safety. Before granting or renewing a license under Clause 8.7, the Council shall ensure that Clauses 9.2 to 9.10 are complied with.
- 9.2 No person shall operate or allow any premises to be operated as a brothel (including a small owner-operated brothel) except in accordance with all of the following provisions.
- 9.3 The premises shall be constructed in accordance with such of the provisions of the Bylaw and the provisions of the Building Act 2004 as are applicable in the circumstances.
- 9.4 The premises shall be adequately ventilated to the satisfaction of an authorised officer.
- 9.5 Where subdued lighting is used in the premises, a fixed secondary system shall be incorporated to provide illumination of not less than 300 lux at a distance of 900mm above the floor for the purposes of cleaning and inspections.
- 9.6 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.
- 9.7 A separate room or separate facilities for the storage of clothing and personal effects shall be provided for use by the staff.
- 9.8 Adequate lockers or separate facilities shall be provided for the storage of clean and soiled laundry, cleaning equipment and massage products. Such lockers are to be separate from any area used for the manufacture, storage and preparation of food and drink.
- 9.9 A wash hand basin supplied and equipped in accordance with Clause 9.6 above shall be so located as to be readily accessible for use by staff members providing commercial sexual services and working in a cubicle or bedroom.
- 9.10 The premises shall be maintained in a state of good repair and in a clean and tidy condition.
- 9.11 In the course of the granting or renewing a license, an authorised officer, may at all reasonable times, after first having given not less than 24 hours written notice to the license holder, enter any brothel and inspect the premises to ensure compliance with this chapter.

9.12 For the avoidance of doubt, any sex worker providing commercial sexual services in their own home, and undertaking this practice as a home occupation is required to comply with the provisions of this chapter as if the home was a small owner-operated brothel.

10.0 REQUISITIONS

10.1 Where a brothel or small owner-operated brothel does not meet the hygiene and maintenance requirements of this chapter the authorised officer shall either decline the application to grant or review the licence or serve notice on the licence holder to carry out, within the time stated in the notice, such remedial action as shall be specified in the notice. Such notice shall require the licence holder to cease operations until the remedial action is complete or for a period set out in the notice.

11.0 PENALTIES

11.1 Notwithstanding Section 10 of Chapter 1 – Bylaw Administration, every person who fails to comply with any requirement of this chapter commits an offence, and is liable on summary conviction to a fine not exceeding \$20,000, or any infringement fees that may be payable.