

# CHRISTCHURCH CITY COUNCIL BROTHELS (LOCATION AND COMMERCIAL SEXUAL SERVICES SIGNAGE) BYLAW 2013

Pursuant to sections 12 and 14 of the Prostitution Reform Act 2003, and the Local Government Act 2002, the Christchurch City Council makes this Bylaw.

## 1. SHORT TITLE AND COMMENCEMENT

- (1) This Bylaw is the Christchurch City Council Brothels (Location and Commercial Sexual Services Signage) Bylaw 2013
- (2) This Bylaw comes into force on 15 April 2013.
- (3) This bylaw was amended on 22 November 2018, and the amended bylaw comes into force on 1 December 2018.

## 2. INTERPRETATION

- (1) Explanatory notes are not part of the bylaw and the Council may add, amend and delete explanatory notes at any time without amending the bylaw.

*Explanatory note: Explanatory notes are used for a number of reasons, including to explain the intent of a clause in less formal language, to include additional helpful information, or because the information may be subject to change and need to be updated before the bylaw itself has to be updated.*

- (2) In this bylaw, unless the context otherwise requires,

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 initiated elsewhere.
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).
COUNCIL	means the Christchurch City Council
DISTRICT	has the same meaning as defined in section 5 of the Local Government Act 2002, and means the district of the Council.
EARLY CHILDHOOD EDUCATION AND CARE CENTRE	means premises used regularly for the education or care of 3 or more children (not being children of the persons providing the education or care, or children enrolled at a school being provided with education or care before or after school) under the age of six: (a) by the day or part of a day; but (b) not for any continuous periods of more than seven days.

MULTI-UNIT RESIDENTIAL COMPLEX	<p>means two or more residential units situated together on an area of land, whether or not the land is in more than one legal title, and irrespective of the legal ownership of the land as a whole, or of the units.</p> <p>(Without limiting the interpretation of this term, examples of arrangements that would be defined as a multi-unit residential complex include:</p> <ul style="list-style-type: none"> <li>• a block of flats, whether multi-storey or not, where there are shared walls between the units or garages of the units;</li> <li>• a townhouse complex, where the units may be physically separated but there is a shared driveway or paths between the units.)</li> </ul>
PREMISES	includes a part of Premises.
PUBLIC PLACE	<p>(a) means a place that is open to, or being used by, the public, whether admission is free or on payment of a charge and whether any owner or occupier of the place is lawfully entitled to exclude or eject a person from that place; and</p> <p>(b) includes any aircraft, hovercraft, ship, ferry, or other vessel, train, or vehicle carrying or available to carry passengers for reward.</p>
SMALL OWNER-OPERATED BROTHEL	<p>means a brothel:</p> <p>(a) at which not more than four sex workers work; and</p> <p>(b) where each of those sex workers retains control over his or her individual earnings from prostitution carried out at the brothel.</p>
SCHOOL	means a Registered School as defined in the Education Act 1989 (being a primary, intermediate, composite, secondary or special school, and can be either a state school or a private school), and an Early Childhood Education and Care Centre, that is in or borders an area shown on the maps in Schedule 1 at the time this Bylaw comes into force.
SIGN	means any sign that is in, or is visible from, a public place, and that advertises commercial sexual services.

### 3. OBJECT OF THE BYLAW

(1) The object of this bylaw is to:

- (a) restrict the location of brothels to certain parts of the district, with no restriction on the location of small owner-operated brothels,
  - (i) except that no brothel, including small owner-operated brothels, can be located in a multi-unit residential complex; and
- (b) provide for specified existing brothels to remain in their current locations; and
- (c) control signage that advertises commercial sexual services, that is in, or is visible from, a public place, on the basis such signs are likely to cause a nuisance or serious offence to members of the public using parts of the district or they are incompatible with the existing character or use of parts of the district, by:
  - (i) prohibiting signs in certain parts of the Council's district; and
  - (ii) regulating the display of signs in other parts of the district through the controls in this bylaw.

## 4. LOCATION OF BROTHELS

- (1) Subject to clause 5, no person may operate, or permit, or allow to be operated, a brothel:
  - (a) in any part of the district other than within an area shown on the maps in Schedule 1; and
  - (b) in any building immediately adjacent to an important open space as marked on the Central City map in Schedule 1; and
  - (c) in any building that is located on a property that shares a boundary with a school; and
  - (d) in any multi-unit residential complex.

*Explanatory note: The maps in Schedule 1 set out the brothels-allowed areas. Brothels can locate in these areas provided they are not on a property sharing a boundary with a school, or in a multi-unit residential complex. A brothel cannot be located next to an important open space area in the central city – these areas are shown on the central city map.*

*The brothels-allowed areas are based on planning documents from when the bylaw was established in 2012. Areas of industrial and commercial zoned land were assessed during the development of the bylaw in order to separate residential areas and schools from areas where brothels could operate. The brothels-allowed areas were then further reduced to provide sufficient buffer zones, and as a result of the public consultation process. This was in order to provide better separation of brothels from children and residential activity. For example, where zones adjoined or were close to schools (or preschools), or residential areas, and were not suitably buffered by a major road, the zones were further reduced. Other parts of some zones were removed when the result of the 'buffering' left only small pockets of properties.*

*The 2012 planning documents on which the maps were based have now been replaced with the Christchurch District Plan. Although there are differences between the 2012 planning documents and the District Plan, the areas set out as brothel-allowed areas in Schedule 1 remain commercial or industrial zones,*

*Within the brothels-allowed areas set out in this bylaw, any brothel must also comply with any applicable District Plan requirements. If a brothel requires a resource consent, it must also undergo an assessment under section 15 of the Prostitution Reform Act 2003,*

## 5. SMALL OWNER-OPERATED BROTHELS

- (1) The location restrictions in clauses 4(1)(a),(b) and (c) of this Bylaw do not apply to small owner-operated brothels.
- (2) No person may operate, or permit, or allow to be operated, a small owner-operated brothel, in any multi-unit residential complex.

*Explanatory note: Information about the operation of small owner-operated brothels:*

*All District Plan requirements relating to 'home occupation' activities must be met for any small owner-operated brothel in any residential zone. In summary, a home occupation is undertaken by a person permanently living on-site, and the home occupation activity is secondary in scale to the residential use of the site. Home occupation businesses cannot operate outside of certain hours. All requirements relating to home occupations are set out in the District Plan and should be read before commencing any activity.*

*If a small owner-operated brothel does not comply with any applicable District Plan requirements, and requires a resource consent, it must undergo an assessment under section 15 of the Prostitution Reform Act 2003,*

*The Unit Titles Act 2010 provides a legal framework for the ownership and management of land held under unit title (residential unit title properties are typically apartment blocks and townhouses). The combination of individual and shared ownership of land and buildings means unit title properties involve a different set of rights and responsibilities to free-standing house and land ownership. A multi-unit residential complex may, alternatively, be held under cross-lease. In any of these situations, there are barriers to operating a business due to the likely impacts on other residents and due to the shared ownership.*

*Anyone wanting to operate a business (including a small-owner operated brothel) from a residential rental property should check their agreement and discuss what is allowed with their landlord.*

## **6. EXISTING BROTHELS**

- (1) The Council holds a register of premises that are exempt from the location controls in clause 4.
- (2) The exemption in clause 6(1) does not apply if, after this Bylaw comes into force, the use of the premises as a brothel changes in character or increases in scale or intensity.
- (3) Any premises described in the register, for the purposes of the signage controls in clause 8, must be regarded as premises situated in an area of the district which is shown on a map in Schedule 1.
- (4) The Council may remove the exemption in the register by resolution.

## **7. PROHIBITION ON SIGNAGE ADVERTISING COMMERCIAL SEXUAL SERVICES**

- (1) No person may display or permit or allow the display of a sign advertising commercial sexual services in any part of the district, other than within an area shown on a map in Schedule 1.
- (2) Even within an area shown on a map in Schedule 1, no person may display or permit or allow the display of a sign advertising commercial sexual services in any part of the district if the sign is visible from any point on a school boundary.

## **8. REGULATION OF SIGNAGE ADVERTISING COMMERCIAL SEXUAL SERVICES**

- (1) A sign advertising commercial sexual services in any part of an area shown on a map in Schedule 1, that is not in a place subject to clause 6(2):
  - (a) must be attached to the premises at which the commercial sexual services it advertises are provided; and
  - (b) must clearly display the number of the premises to which the sign relates; and
  - (c) must not be offensive; and
  - (d) must not display any pictorial image; and
  - (e) must not exceed 0.3 square metres in surface area; and
  - (f) must not be illuminated by any flashing light.
- (2) No person may display, or allow the display, of more than one sign upon any premises at which commercial sexual services are provided, even if those premises have more than one street frontage.

## 9. OFFENCE AND PENALTY

- (1) Every person who breaches this bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$20,000, as set out in the Local Government Act 2002.

## 10. CHRISTCHURCH CITY COUNCIL GENERAL BYLAW

- (1) The provisions of the Christchurch City Council General Bylaw 2008 and any bylaw passed in amendment or substitution are implied into and form part of this Bylaw.

*Explanatory note: The Council's General Bylaw 2008 contains a dispensing power, enabling the Council to grant a dispensation from full compliance with any provision of a bylaw (where the Council considers that full compliance would adversely affect any person or business, without a corresponding benefit to the public or any section of it). This applies to any aspect of any bylaw, and could, for example, apply to the restriction on a small owner-operated brothel wanting to operate from a multi-unit residential complex.*

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*The initial resolution to make this Bylaw was passed by the Christchurch City Council at a Meeting of the Council held on 24 May 2012 and was confirmed following consideration of submissions received during the special consultative procedure, by a resolution of the Council at a subsequent Meeting of the Council held on 28 March 2013.*

*This Bylaw was reviewed in 2018 to comply with Local Government Act 2002 review requirements (section 158(1)), and was subsequently amended by the Christchurch City Council at a Meeting of the Council held on 22 November 2018.*

## FIRST SCHEDULE

- (1) Maps of areas where brothels can be located in accordance with clause 4(1)(a).

*List of map titles in the First Schedule:*

- *Citywide map*
- *Central City map*
- *Sydenham map*
- *Ferrymead map*
- *Bromley / Wainoni map*
- *Riccarton / Addington map*
- *Blenheim Road map*
- *Hornby map*
- *Hornby South map*
- *Burnside map*
- *Belfast map*