This bylaw is made under the Local Government Act 2002 and the Prostitution Reform Act 2003.

1. Scope and Purpose

To regulate the location of brothels.

To regulate and control signage which advertises commercial sexual services located in, or visible from, a public place to ensure that it does not cause a nuisance or serious offence to ordinary members of the public using the area, and that it is compatible with the existing character or use of the area.

2. Interpretation

In this bylaw:

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 sex premises means premises used or intended to be used primarily for exposing, selling, or hiring goods or services related to sexual behaviour; and to avoid any doubt includes brothels, strip clubs, strip bars, rap parlours, peep shows, lap dancing bars, massage parlours, escort agencies; but does not include adult bookshops, adult video shops, adult cinemas, sex shops, hospitals, healthcare services, chemists, community welfare facilities, or premises where therapeutic massage is offered.

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 Tauranga City Council

Public place 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 includes any aircraft, hovercraft, ship, ferry or other vessel, train or vehicle carrying or available to carry passengers for reward.
Tauranga, Mount Maunganui, Greerton Commercial/Industrial Business Areas means those areas shown on the Schedule 1 Maps and includes the Tauranga Central, Oropi, Judea, Mount Maunganui, Te Maunga and Greerton Business Areas.

Sign means any word, figure, image, poster, advertising device or appliance, or thing of a similar advertising nature intended principally to attract attention, whether it is placed on or affixed to any land or building or incorporated within the design of any building, and which is visible from a public place.

3. **Location of Brothels**

3.1 For the purposes of Clauses 3 and 4 only, the term “brothel” shall not include a brothel which involves only one person offering commercial sex services in his or her own residence.

3.2 No person shall establish or operate a brothel anywhere in Tauranga City outside the Tauranga, Mount Maunganui, Greerton Commercial/Industrial Business Areas.

4. **Premises Consent**

4.1 No person shall establish or operate a brothel without first having obtained a premises consent for that brothel from the Council.

4.2 An application for a premises consent for a brothel must be made in writing and be accompanied by such application fee as the Council may determine. The premises consent must be prominently displayed in a public part of the premises to which it relates.

4.3 The Council will not grant a premises consent for a brothel that will be located within 100 metres of any school, other educational or childcare establishment, church or other building habitually used for religious purposes where such building is located outside the Tauranga, Mount Maunganui, Greerton Commercial/Industrial Business Areas, unless the brothel has previously held a premises consent for that location under this bylaw.

4.4 The Council may grant a premises consent for a brothel for a period set out in the premises consent not exceeding 3 years.

4.5 The grant of a premises consent under this bylaw does not amount to a planning consent under the Tauranga District Plan. All relevant planning provisions must also be complied with.

5. **Signs**

5.1 No person shall place, or allow to remain in place, on or in any building or structure in a residential zone (as defined in any Tauranga District Plan in force for the time being) a sign which advertises or informs the public of a brothel (including a brothel involving only one person operating in his or her own residence).

5.2 No person shall place, or allow to remain in place, on or in any building or structure in the city a sign that advertises or informs the public of a brothel unless:
a) where a premises consent is required under clause 4 of this bylaw, the brothel has in force such a premises consent; and
b) the sign is located on the premises comprising that brothel; and
c) the sign contains only the name of that brothel but no logos or other visual images; and
d) the person has obtained written approval for the sign from the Council.

5.3 Council will not grant an approval for a sign provided for under Clause 5.2 if one or more of the following applies:
   a) the sign contains neon lighting or includes or is lit by flashing lights; or
   b) the sign contains offensive or sexually explicit words; or
   c) there is already another sign in relation to the brothel.
   d) the sign is greater than 1.5 m² in area
   e) the brothel is outside the Tauranga, Mount Maunganui, Greerton Commercial/Industrial Business Areas.

5.4 The Council may, by written notice served on the owner or operator of any brothel, require that owner or operator to change or remove any sign which does not comply with the terms of this bylaw or any approval granted under it.

5.5 If the owner or operator of any brothel has been served with a notice under Clause 5.4, that owner or operator must comply with that notice within the time specified in the notice.

5.6 If the owner or operator fails to comply with the notice within the time specified in the notice, the Council may remove or alter the sign. The owner and/or operator of the brothel are liable for the Council’s cost in removing or altering the sign.

6. **Touting**

6.1 No person shall, in any public place, tout for business for, or otherwise verbally advertise on behalf of a brothel or other commercial sex premises.

6.2 No person shall distribute, in any public place, any handbills, writings or pictures containing offensive, lewd or explicit words or pictures that have the primary purpose, whether explicitly or implicitly, of advertising, identifying, or informing the public of any brothel or other commercial sex premises or the availability of commercial sexual services.

7. **Offences and Breaches**

Every person breaches this Bylaw and commits an offence who:

1. Does, or allows anything to be done, which is contrary to this Bylaw or any part of it; or

2. Fails to do, or allows anything to remain undone, which ought to be done by him or her within the time and in the manner required by this Bylaw or any part of it; or

3. Does anything which this Bylaw prohibits; or
4. Fails to comply with any notice given to him or her under this Bylaw or any part of it or any condition of a licence granted by the Council; or

5. Obstructs or hinders any Council officer or other Council appointed person in performing any duty or in exercising any power under this Bylaw.

8. **Consents**

8.1 The form of any application for and grant of any permission, consent or approval required under this Bylaw will be determined by the Council.

8.2 The Council may attach to any permission, approval or consent any terms or conditions as it thinks fit.

8.3 No application for a consent from the Council, and no payment of or receipt for any fee paid in connection with such application or consent, shall confer any right, authority or immunity on the person making such application or payment.

8.4 **Suspending or Revoking Consents**

(a) The Council may revoke or suspend a consent granted under this Bylaw if it reasonably believes the consent holder:

   i. has acted or is acting in breach of the consent; or
   ii. is unfit in any way to hold such a consent.

(b) The Council may require the consent holder to attend a hearing to explain why the consent should not be revoked or suspended. The Council may revoke or suspend the consent at its discretion if either;

   i. the consent holder does not attend the hearing; or
   ii. if after the hearing the Council is satisfied the consent holder has been in breach of the consent or is unfit to hold the consent.

9. **Fees**

The Council may in accordance with section 150 of the Local Government Act 2002 prescribe fees or charges payable for any certificate, licence, approval, permit or consent form or inspection made by the Council under this Bylaw.

10. **Notices**

The Council may give notice to any person in breach of this Bylaw to carry out any remedial action in order to comply with the Bylaw and every such notice shall state the time within which the remedial action is to be carried out, and may be extended from time to time.
11. **Penalties**

11.1 Subject to anything to the contrary, every person who commits an offence against this Bylaw shall be subject to the penalties set out in section 242(4) of the Local Government Act 2002.

11.2 Under section 163 of the Local Government Act 2002 the Council or an authorised agent appointed by it, may remove or alter any work or thing that is or has been constructed in breach of this Bylaw.

11.3 The Council may recover the costs of removing or altering the work or thing that is in breach of this Bylaw from the person who committed the breach. This does not relieve that person of liability for the breach.

11.4 Under section 162 of the Local Government Act 2002 the Council may apply to the District Court for the grant of an injunction restraining a person from committing a breach of this Bylaw.

11.5 The Council may seize and impound property materially involved in the commission of an offence, under and in accordance with sections 164 and 165 of the Local Government Act 2002.

11.6 The Council will return and may dispose of property seized and impounded in accordance with sections 167 and 168 of the Local Government Act 2002.

12. **Dispensing Powers**

The Council may waive full compliance with any provision of this Bylaw in a case where the Council is of the opinion that full compliance would needlessly cause harm, loss or inconvenience to any person or business without any corresponding benefit to the community. The Council may in its discretion impose conditions of any such waiver.

13. **Commencement**

This bylaw comes into force on 1 July 2008.
Schedule 1: Maps – Brothel Location Areas

Tauranga, Mount Maunganui, Greerton Commercial/Industrial Business Areas to which (subject to the provisions of Clauses 3.1 and 3.2 of the bylaw) brothels are restricted as to location.

Maps

A. Tauranga Central Business Area Map
B. Oropi Business Area Map
C. Judea Business Area Map
D. Mount Maunganui Business Area Maps 1, 2
E. Te Maunga Business Area Map
F. Greerton Business Area Map