

General Bylaw

2021

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REVISION HISTORY

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Department:	Operations
Responsible Officer:	Manager Planning
Sponsor:	General Manager – Operations
Approved by:	Chief Executive Officer

1. Introduction

This Bylaw is the Mackenzie District Council General Bylaw 2021.

This Bylaw shall come into force on 16 November 2021.

This Bylaw has been made pursuant to section 145 of the Local Government Act 2002.

2. Purpose

The purpose of this Bylaw is:

- to set the provisions which are common to, and form part, of all Mackenzie District Council bylaws that come into force on or after the date of commencement of this Bylaw.

3. Interpretation

For the purposes of this Bylaw the following definitions shall apply:

Act	the Local Government Act 2002
Authorised Officer	a Council officer appointed by Council to be an Enforcement/Compliance Officer or a Police Officer
Council	the Mackenzie District Council
License Holder	any person who has obtained a license from the Council to do anything for which a license from the Council is required
Person	any individual, company or other commercial body

5. Powers of Delegations

Where a bylaw provides for the issue of an order, notice or license, such order, notice or license shall be deemed to be issued in compliance with this Bylaw if it is issued by an authorised officer.

The powers or duties imposed on an authorised officer under this Bylaw may be delegated to any other officer of Council, either generally or specifically and with or without conditions.

All authorised officers appointed by Council, under or for the purpose of any repealed or expired bylaw, and holding office at the time of the coming into operation of this Bylaw, shall be deemed to have been appointed under this Bylaw in relation to any provision of this Bylaw that with or without modification, replaces or that corresponds to a provision of the repealed or expired bylaw.

In this Bylaw, where any written permission or approval of the Council is required, that approval may be given by the Chief Executive, and the Chief Executive may delegate all or part of that function to any other officer of Council.

6. Power of Entry

In administering and enforcing any bylaw, the Council may utilise the applicable powers of entry in the Act and any other relevant legislation.

Every person who obstructs or hinders an authorised officer in the exercise of their power of entry under this Bylaw, may be liable to prosecution for an offence against this Bylaw.

An authorised officer exercising a power of entry onto private land is required to provide a written warrant under seal of the Council as evidence of authority to do so.

7. Serving of Orders and Notices

An authorised officer may require any person who breaches or fails to comply with the provisions of any bylaw, or the conditions of a license, to remedy the breach or comply with the conditions of a license by giving such person notice in writing.

Any order or notice shall state the time within or date before which any remedial action must be carried out and may be extended by written authority from an authorised officer.

Where any notice, order, or other document is required to be served on any person for the purposes of this Bylaw, service may be made by:

- delivering it personally to the person;
- sending it by courier or post; or
- electronic means (email).

If such person is absent from New Zealand the order or notice may be served on that person's agent.

If the order, notice, or other document relates to land or buildings, and the owner is not known or is absent from New Zealand, or has no known agent in New Zealand, the order or notice may be:

- served on the occupier of the land or buildings; or
- if there is no occupier, placed on a noticeable part of the land or buildings.

It is not necessary to name the occupier or owner of the land or buildings if the owner is not known or has no known agent in New Zealand.

8. Licenses

Any person shall obtain a license if they are doing or proposing to do anything for which a license from the Council, under any bylaw, is required.

Every application for a license shall be made in the manner prescribed by Council and accompanied by the relevant prescribed fee.

Any license is deemed to be issued under this Bylaw if it is issued by an authorised officer.

A license may be subject to any conditions at the discretion of an authorised officer.

Unless a bylaw provides otherwise, a license is not transferable, and no such license authorises any person other than the license holder to act in any way under its terms and conditions.

If, following a request for payment, any license fee remains unpaid, the license shall immediately cease to be valid.

9. Suspension and Revocation of License

The Council may:

- revoke a license;
- suspend a license for a specified time; or
- amend the terms and conditions of a license;

if it considers any of the following circumstances to be applicable:

- the license holder:
 - has been convicted of an offence and the Council considers the offence to have an effect on the holder's suitability to hold a license;
 - has acted or is acting in a manner contrary to the purpose of the relevant bylaw;
 - has failed to comply with the conditions of their license; or
 - is in any way unfit to hold the license.
- the premises for which the license was issued is being used for any purpose other than that stated in the license or is in a state of disrepair contrary to the terms of the license; or
- the relevant bylaw or the conditions of the license are not being observed.

A person whose license is suspended, during the period of suspension, shall be deemed to be unlicensed.

A license holder may appear before Council and give reasons why the license should not be revoked or suspended.

10. Repair and Removal of Works

Council may use its powers under the Act to repair, remove, or cause to be repaired, removed, or altered, any work, material, or thing erected or done in contravention of a bylaw.

Council may, under section 163 of the Act, recover the costs of such removal or alteration from the person who committed the breach.

The exercise of this authority shall not relieve any such person from responsibility for any penalty for erecting or permitting the continued existence of any such work, material or thing.

11. Documents

Council may prescribe the form of any application, certificate, license, or other document, which is required under any bylaw.

These forms may be altered or amended at any time.

Variation from the exact form prescribed shall not render any application, certificate, license, or other document void. However, Council may reject any document where it considers the non-compliance is of significance and substantially detracts from the effect of the document.

11. Fees and Charges

Council may, by resolution:

- charge a fee for receiving and processing an application and issuing a license under this Bylaw.
- prescribe any charges to be paid for the use of a license issued under this Bylaw.
- prescribe fees that may be charged in respect of any inspection made or service given by the Council under any bylaw, the Act or any other enactment.
- determine situations when license fees under this Bylaw may be remitted, refunded or waived.

Council may, by resolution, vary any fee in respect of any matter provided for in this Bylaw.

Council may require either full or a part payment of any fee or charge payable in respect of this Bylaw before issuing any license, approval or consent or performing any other action to which the fee or charge relates.

The Chief Executive may waive any fee charged for a license, approval or consent under this Bylaw on a case by case basis.

12. Compliance Waiver

An application may be made to Council to waive full compliance with any provision of this Bylaw on the basis that it would needlessly cause harm, loss or inconvenience to any person, or the operation of any business.

On receipt of an application, Council may:

- waive the strict observance or performance of any provision of this Bylaw; or
- impose such other terms or conditions consistent with the intention and purpose of the Bylaw as Council see fit.

Except to the extent expressly stated, any waiver granted by Council shall only be applicable to the person it is granted to and shall be restricted to the particular issue considered by Council and such waiver shall not constitute a justification for the breach of the provisions of a bylaw for anything other than the expressed terms of the waiver.

13. Offences and Penalties

Any person commits a breach of this Bylaw who:

- does, or causes to be done, or knowingly permits or suffers to be done, anything that is contrary to any provisions of a bylaw;
- fails to do, or knowingly permits or suffers to remain undone, anything which that person was required to do under a bylaw;
- refuses or neglects to comply with any notice or direction duly given to that person under a bylaw within the time period specified in that notice or direction;
- obstructs or hinders an authorised officer in the performance of his or her duties under a bylaw;
- omits, neglects or fails to obtain a current license where required under a bylaw;
- omits, neglects or fails to pay a license fee fixed by Council; or
- fails to comply with any conditions contained in a license granted by Council.

Where it is suspected that a person has committed a breach of this Bylaw, that person shall, on the direction of an authorised officer provide their full name and address.

In accordance with section 162 of the Act, Council may apply to the District Court for an injunction to restrain a person from committing a breach or continuing to breach a Bylaw.

Every person who commits an offence against this Bylaw is liable to:

- pay the maximum fine set out in section 242 of the Act; or
- any other penalty specified in an enactment for the breach of a bylaw.



Mackenzie

DISTRICT COUNCIL