

NEZAADIIKAANG
Lac des Mille Lacs First Nation
Property Standards By-Law

BY-LAW 17-04

A by-law to set the standards for the
maintenance and occupancy of property on
Lac des Mille Lacs First Nation Reserve

BY-LAW 17-04: PROPERTY STANDARDS

of the Lac des Mille Lacs First Nation.

A By-Law to set the standards for the maintenance and occupancy of property on Reserve.

Enacted on this _____ day of _____ 20__.

WHEREAS the Lac des Mille Lacs First Nation leadership requires a by-law to set the standards for the maintenance and occupancy of property on Reserve;

AND WHEREAS the Lac des Mille Lacs First Nation leadership is empowered to make such by-law pursuant to paragraphs 81(1)(g), (q) and (r) of the Indian Act;

AND WHEREAS it is considered necessary for the proper development and safeguard of the Reserve to regulate the property standards of the Reserve;

THEREFORE be it resolved that the Lac des Mille Lacs First Nation leadership hereby makes the following by-law:

PART I – GENERAL

Short Title

1. This by-law may be cited as the “LDMLFN Property Standards By-law”.

Interpretation

2. In this by-law:

- (a) Accessory Building or Structure refers to a detached building or structure, the use of which is incidental or secondary to that of the main building.
- (b) Appliances refer to refrigerators, stoves, clothes washers, clothes dryers, dishwashers, and hot water tanks.
- (c) Band, First Nation or LDMLFN refers to the Lac des Mille Lacs First Nation.
- (d) Basement refers to one or more storeys of a Building located below the first storey and which is either wholly or partially below grade.
- (e) Building refers to any structure used or designed to be used for shelter, accommodation or enclosure of persons, animals, or chattels.
- (f) By-law Enforcement Officer refers to any person or authority designated by and for Chief and Council to oversee the enforcement of First Nation by-laws.

- (g) Cellar refers to that uninhabitable space of a Building that is partly or entirely below grade, which has more than half of its height, measured from floor to ceiling below the average exterior finished grade.
- (h) Chief and Council refers to the governing body composed of those persons elected pursuant to the LDMLFN *Custom Leadership Selection Code*.
- (i) Debris refers to refuse, waste, discarded materials or garbage of any kind whatsoever. The term includes the following, whether of value or not:
- (i) accumulations of litter, remains, rubbish, trash;
 - (ii) weighty or bulky items such as: appliances, furnaces, furnace parts, pipes, pipefittings, water or fuel tanks, placed in a condition or location where they cannot be used for their intended purposes;
 - (iii) paper, cartons;
 - (iv) dilapidated furniture;
 - (v) crockery, glass, cans, containers;
 - (vi) garden refuse and trimmings;
 - (vii) material from or for construction and demolition projects;
 - (viii) domestic and industrial waste;
 - (ix) dead or dying trees, branches, leaves or shrubs;
 - (x) inoperative machinery and/or vehicles;
 - (xi) motor vehicle parts;
 - (xii) mechanical equipment or equipment parts placed in a condition or location where they cannot be used for their intended purposes;
 - (xiii) earth or rock fill;
 - (xiv) clothing or other household linens lying in an unprotected condition;
 - (xv) objects or conditions that may create a health, fire or accident hazard; and
 - (xvi) animal feces.
- (j) Dwelling refers to any Building which is primarily used for the dwelling of persons, and includes a single family home, semi-detached duplex, Dwelling Unit in a multi-unit building, including but not limited to a modular, prefabricated, or mobile home that may be described as a home, house, cottage, seasonal home and/or camp.
- (k) Dwelling Unit refers to one or more habitable rooms designed for use by and occupied by not more than one family and in which separate kitchen and sanitary facilities are provided for the exclusive use of such a family, with a private entrance from outside the building or from a common hallway or stairway inside the building
- (l) Fire Code refers to the fire code under the current *Fire Protection and Prevention Act*.
- (m) Habitable Room refers to any room in a Dwelling Unit designed to be used for living, sleeping, cooking or eating purposes. The term does not include: bathrooms, laundry rooms, pantries, lobbies, corridors, halls, attics, stairways, closets, boiler rooms, cellars or other spaces for service or maintenance of the dwelling or access to or vertical travel between floors of the dwelling.

- (n) Hazard refers to Lands, Buildings, Structures or materials that are in an unsafe condition, or that constitute a fire and/or health & safety risk.
- (o) Housing Committee refers to the committee established or appointed by Chief and Council to review and formulate policies, plans and by-laws and to oversee the administration and enforcement of all LDMLFN housing programs and services. The decisions and approvals of the Housing Committee are made with the full direction and support of Chief and Council.
- (p) Inoperative machinery includes but is not limited to machinery that is unable to be operated as a result of being dismantled, broken or incomplete, decayed or dilapidated.
- (q) Inoperative Motor Vehicle includes but is not limited to a motor vehicle that is unable to be lawfully operated, is damaged to the extent that it cannot be driven, is in a wrecked or dismantled condition or has had its source of motor power removed.
- (r) Land refers to real property situate on the Reserve, whether or not it contains Buildings or Structures, and whether it is vacant or occupied. Reference to “Land” includes all Buildings and Structures on the Land.
- (s) Lot means a parcel or tract of land that has been properly surveyed and identified as being separate and distinct from any adjacent or adjoining Land, and for which a Certificate of Possession may be issued by LDMLFN.
- (t) Lot Registry means the records kept for each Lot in accordance with the policies adopted by LDMLFN from time to time.
- (u) Maintenance refers to minor repairs and upkeep of a Lot, property, house or Dwelling Unit to an acceptable condition as required by this policy; and Maintain shall have a corresponding meaning.
- (v) Motor Vehicle refers to an automobile, motorcycle, motor assisted bicycle, trailer, boat, motorized snow vehicle, mechanical equipment and any vehicle drawn, propelled or driven by any kind of power, excluding muscular power, unless otherwise indicated in the *Highway Traffic Act*.
- (w) Non-Residential Property refers to Land that does not meet the definition of residential property. Where a particular property has both residential and non-residential uses at the same site, those portions of the property which meet the definition of “residential property” must abide by the residential property standards of this by-law.
- (x) Nuisance is a condition or use of Land which unreasonably interferes with the lawful use of another person’s Land. It typically involves an injurious, offensive or objectionable condition. Examples include:
 - (i) emissions of smoke, gas, fumes, dust, or sawdust;

- (ii) objectionable odours;
 - (iii) the unsightly storage of goods, wares, merchandise, debris or other material; or
 - (iv) emissions of unwarranted noise between the times of 11:00pm and 7:00am, Monday through Sunday.
- (y) Occupant refers to any person or persons who reside on the Reserve is either an owner or tenant of the Land, or other person that it residing with the owner or tenant.
- (z) Private Owner refers to the person or persons lawfully registered to the Lot, to which a Certificate of Possession or Certificate of Occupancy has been issued.
- (aa) Potable Water refers to water meeting all Provincial standards for drinking water.
- (bb) Professional refers to an engineer, architect, or other person with credentials required by the circumstances, who are accredited as such in a manner satisfactory to the Housing Committee.
- (cc) Property refers to a Building or Structure and the Land, and includes the lands and all mobiles homes, mobile buildings; mobile structures, outbuildings, fences and erections, and includes vacant property.
- (dd) Rented Dwelling Unit refers to a dwelling unit, whether self-contained or not, that is occupied as a residence by someone other than the owner of the land on which it exists, whether or not the occupant pays anything for the right of occupancy.
- (ee) Renovations refer to major repairs of property, Buildings or Dwelling Unit that are not a minor maintenance; and Renovate shall have a corresponding meaning.
- (ff) Reserve refers to the tracts of land held by Her Majesty the Queen in Right of Canada for the use and benefit of LDMLFN and its members, and under the jurisdiction of the LDMLFN and which is known as the Lac des Mille Lacs Indian Reserve 22A1 and 22A2.
- (gg) Sewage refers to any liquid waste containing human, vegetable, or mineral waste that is in suspension whether domestic or industrial or any other waste whether in suspension or precipitated, but does not include roof water or storm runoff.
- (hh) Structure refers to anything constructed or erected, the use of which requires location on or in the ground or attached to something having location on or in the ground. This includes but is not limited to any building, retaining wall, scaffolding, garbage container, trailer, tower, mobile home, or portable shack.
- (ii) Vacated Property refers to Land containing Buildings or Structures which are not regularly occupied or regularly used by the owner or by any authorized occupant.

- (jj) Vermin refers to mammals, birds or insects injurious to humans, physical property, game, livestock, or crops. Examples include: skunks, rats, termites, poisonous insects or reptiles, moths, and mice.
- (kk) Washroom refers to an area containing a toilet, a washbasin, and a bathtub or shower.
- (ll) Yard refers to the unoccupied space located on the same Lot as a Building or Structure, and which space is open, uncovered and unoccupied from the ground to the sky except for such accessory buildings or Structures or uses as are specifically permitted.

Application of By-law

3.(1) The provisions of this by-law apply to all property within the Reserve.

(2) The standards set out in this policy apply, regardless of the property's purpose, unless another specific article of this by-law provides a different standard for a particular property use. In the case of any conflicting standards, the more stringent standard shall apply.

PART II – ADMINISTRATION

Authority

4.(1) The Chief and Council may, by resolution, appoint or designate the Housing Committee and/or By Law Enforcement Officer and/or any other person or authority whose duty shall be to administer and enforce this by-law.

(2) The Chief and Council may, in the resolution, provide for reasonable remuneration to be paid to such person or authority.

PART III - GENERAL PROPERTY STANDARDS PROVISIONS

General Duty to Repair and Maintain Property

5. (1) Every Private Owner and Occupant must repair and maintain his or her Property in accordance with the standards prescribed in this by-law.

(2) Every Private Owner and Occupant must repair, Renovate and Maintain his or her Property to ensure it is hazard free.

(3) All repairs, Renovations and Maintenance of Property shall be carried out with suitable and sufficient materials and in a manner accepted as good workmanship within the trades concerned. All new construction or Renovations shall conform to all applicable buildings codes and standards, including the Ontario Building Code.

(4) A Private Owner under any lease with a tenant or other Occupant shall be entitled to delegate the requirements herein, but such contractual rights as against the tenant or other Occupant shall not relieve the Private Owner of complying with the terms of this by-Law.

Prohibition Against Renting Properties That Do Not Meet Standards

6. No Private Owner of a Property shall permit the use or occupancy of, and/or rent or lease to, and/or offer to rent or lease to, another person, any Property that does not conform to the provisions of this by-law.

Structural Standards

7. (1) Every Private Owner of a Building or Structure shall maintain it in a structurally sound condition, so as to be capable of sustaining safely its own weight and any load to which it might normally be subjected.
- (2) Every foundation wall, basement, cellar or crawl space, floor, slab at ground level, exterior wall and roof shall be structurally sound, weather-tight and damp-proofed and shall be maintained in a good state of repair so as to reasonably protect against deterioration, including that due to weather, fungus, dry rot, rodents, vermin or insects.
- (3) Every Private Owner of a Building or Structure shall maintain the foundation walls of that Building so as to prevent the entrance of excessive moisture.
- (4) Every Private Owner of a Building or Structure, excepting those constructed with slab on-grade construction, shall maintain foundation walls or piers which extend below the frost line, or to solid rock.

Exterior Building Requirements

8. Every Private Owner of a Building or Structure must keep the walls, roofs and other exterior parts of that Building or Structure in good repair and reasonably free from holes, cracks, excessive wear and warping, and other defects that may lead to deterioration of the Building or Structure and unsafe conditions for the occupants.

Property Damage

9. (1) A Building or Structure which is damaged, whether by natural causes or vandalism, must be demolished, Renovated or repaired by the Private Owner as soon as is practicable, or barricaded until the necessary demolition, Renovation or repair can be carried out.
- (2) Where a Building or Structure has been condemned and confirmed to be no longer fit for habitation or is confirmed to pose an environmental hazard to the community, as supported by a written report from a certified inspector/Environmental Health Officer (Public Health Agency of Canada), the following shall apply:
- a The Housing Committee or other authority appointed by Chief and Council shall provide written notice to the Private Owner, signed by an authorized representative of LDMLFN, within ten (10) days of receiving the inspector's report, confirming the condemnation of the Building or Structure. The notice, shall include a copy of the inspection report, and shall be delivered to the Private Owner either by:
 - Registered mail to the mailing address on the Lot Registry. The notice is considered to have been delivered on the fifth (5) day after the date of mailing; or
 - By hand to an adult person living in the Dwelling Unit, with a third-party as witness to the delivery of the notice.
 - b The notice shall confirm that:
 - The Building or Structure shall be demolished within ninety (90) days of the notice being served unless an additional period is granted by the Housing Committee (or other authority) in consideration of weather conditions;
 - the Demolition and removal of debris, and removal of any water and/or waste supply and disposal systems shall conform to the applicable building codes,

LDMLFN by-laws specifying building or other standards, and any other by-laws, codes and regulations applicable to the project (i.e. applicable building code related to septic systems); and

- The Private Owner is responsible for all costs associated with the demolition and removal of debris including permits and notices.
- c Failure by the Private Owner to complete the demolition and removal of debris within the period required by the Housing Committee shall result in the Housing Committee taking the necessary action to demolish the Building or Structure and remove and dispose of the debris. LDMLFN shall pay these costs and shall issue an invoice for these costs by registered mail to the Private Owner. The Private Owner shall be held responsible for demolition costs and any other expenses that LDMLFN has incurred as a result of disposal of a condemned Building or Structure.
- d Where the Private Owner fails to pay the demolition costs and any other expenses incurred as a result of disposal of a condemned Building or Structure, LDMLFN shall enter the costs as an accounts receivable against the Private Owner. No Band Member that shall have an outstanding receivable with LDMLFN under this provision shall be entitled to apply for or be granted a Lot under LDMLFN's Residential By-Law or policies.

Parking Areas and Driveways

10. The Private Owner of a Property which is used for vehicular traffic and parking must maintain those parts of the Property used for same with a surface covering of asphalt, concrete, or compacted stone or gravel. Further, the Private Owner must keep these areas in good repair.

Lighting of Yards

11. (1) Private Owners and Occupants who erect or maintain lights to illuminate any Yard, or objects within the Yard, such as signs, must arrange, install, design and maintain the lights so as to deflect away from abutting Lands which are used for residential purposes.

(2) Alternatively, they may provide and maintain effective barriers to prevent the light from lamp standards, signs, and other sources from shining directly into a Dwelling Unit on neighbouring Property.

Steps, Walkways, Pedestrian Areas

12. The Private Owner of any Property must maintain steps, walkways, sidewalks and other areas intended for use by pedestrians in a manner which affords safe passage under normal use and normal weather conditions, day or night.

Pest Prevention

13. Every Private Owner and Occupant of Property must:

- a keep the Buildings and Structures free of vermin at all times; and
- b keep all openings of Buildings containing Dwelling Units that might permit the entry of vermin appropriately screened or sealed.

Plumbing and Sewage

14. (1) Plumbing and drainage systems shall be maintained, by the Private Owner, free from leaks, defects, or obstructions and adequately protected from freezing.

(2) All buildings intended for human habitation or occupancy shall have an approved means of sewage disposal, in accordance with the requirements of the Ontario Building Code and the Regulations of the Ministry of Environment.

(3) The Private Owner or Occupant of a Building or Structure shall not discharge sewage of any kind onto the surface of the ground, whether into a natural or artificial surface drainage system or otherwise.

Drainage

15. (1) The Private Owner of a Building or Structure must provide a roof drainage system and, where necessary, sump pit system that is configured, installed and maintained to prevent:

- a recurrent ponding of water on the Lands or on neighbouring Lands.
- b roof water or sump pump discharge from depositing on any abutting Lands, including roadways, ditches or sidewalks.

(2) Storm water runoff shall be drained from the grounds and from any area below exterior grade so as to prevent excessive ponding, erosion, or the entrance of water into a Building or Structure.

Garbage Disposal - Adequacy

16. (1) Every Private Owner or Occupant of Property that is occupied must have a sufficient number of receptacles to contain all refuse/garbage that accumulates.

(2) The receptacles must be so constructed as to be free of holes, breaks or cracks, and must have smooth surfaces with finishes that are impervious to water.

(3) Where the Private Owner or Occupant of Property stores refuse/garbage out-of-doors, he or she must provide an effective container or barrier that prevents waste, wrappings, debris, and the like from encroaching onto, or escaping onto, abutting or neighbouring Lands.

(4) Refuse/garbage is not to accumulate beyond seven (7) days and is to be disposed of at an approved landfill site.

Heat and Air Conditioner – Maintenance

17. Private Owners and Occupants of Property with installed heating and air conditioning units of any size or type must maintain the units and their associated mechanical ventilating, electrical systems and any supporting structures in good repair, and in a safe condition.

Electrical Service

18. The Private Owner of Property must install and maintain a complete electrical wiring system and all electrical fixtures located or used on the property in good working order and in conformity with all applicable codes and standards (ie. Electrical Safety Authority or ESA).

Fire Safety

19. The Private Owner and Occupants of Property must install and maintain the required number of smoke and carbon monoxide detectors in good working order and in conformity with all applicable codes and standards as per the *Fire Protection and Prevention Act* (FPPA).

Water Supply

20. The Private Owner of Property is responsible for maintaining and if necessary upgrading their own well system in accordance to the Ministry of Environment. The onus is upon the Private Owner or the Occupant of Property to have their individual water supply tested regularly with Ontario Public Health.

Nuisances

21. It is an offence for a Private Owner or Occupant to use the property in a manner which creates a Nuisance; or to allow a condition to develop and remain in a manner which creates a Nuisance.

Interior Building Requirements

22. Every Private Owner of a Building or Structure containing at least one Dwelling Unit must maintain every floor, wall, ceiling and fixture of that Dwelling Unit in good repair and reasonably free from holes, cracks, excessive wear and warping, loose coverings or other defects that may lead to deterioration of the building and unsafe conditions for the Occupants.

Habitable Room Lighting Requirements

23. Every Private Owner of a Building containing at least one Dwelling Unit must provide every Habitable Room (with the exception of kitchens and bathrooms) with a window, skylight or translucent panel facing directly or indirectly to an outside space and admitting natural light in accordance with all applicable building codes.

Washroom Facilities in Self-Contained Dwelling Units

24. (1) Every Private Owner of a Building containing at least one Dwelling Unit must provide each self-contained Dwelling Unit in the Building with:

- a washroom consisting of at least one fully-operational water closet, at least one washbasin, and a bathtub or suitable shower unit;
- b an Adequate and Suitable Supply of Hot Water, as well as cold running water, to every washbasin and bathtub and shower in a bathroom;
- c an adequate and suitable supply of water for every water closet in a bathroom; and
- d accessibility to at least one bathroom from within the Dwelling Unit.

(2) Subject to a requirement that every room containing a toilet, urinal or bidet must also contain a washbasin, the facilities to make up the bathroom required by (a) above may be contained in more than one room.

PART VII – STANDARDS FOR VACATED PROPERTY**Residential Registry**

25. (1) The First Nation will maintain the Lot Registry in accordance with the Residential By-Law. Every Owner of a Lot must provide the First Nation with the information necessary for completion of the Lot Registry with respect to the Vacated Property.

(2) Every Owner of Vacated Property must keep the First Nation advised of his or her current mailing address to keep the Lot Registry up to date.

Annual Interior Inspections of Buildings on Vacated Property

26. In addition to any other inspections of a Building on Vacated Property as required or permitted under this by-law or any applicable legislation, The Housing Committee, at least once each calendar year, may conduct an interior inspection of a Building on a Vacated Property after providing reasonable notice to the Private Owner.

Fee for Annual Inspection

27. The First Nation may charge fees for annual inspections for Buildings or Structures on Vacated Property.

Maintenance of Vacated Property

28. The Private Owner of a Vacated Property must:

- a keep all Buildings and Structures on the Land clear of Debris;
- b disconnect or have disconnected or discontinued all water, electrical and gas services to the Buildings and Structures, excepting any that are required for the security and maintenance of the Land; and
- c maintain the Buildings and Structures on the Land to guard against unsafe conditions, risk of fire, accident or other hazard.

Securing Vacated Property

29. The Private Owner of a Building or Structure situated on Vacated Property must:

- a keep all exterior doors to the Building or Structure operational, so as to fit tightly within their frames when closed;
- b keep all exterior doors to the Building or Structure locked so as to prevent unauthorized entry;
- c keep all windows on the Building or Structure properly glazed and in good repair;
- d keep all windows on the Building or Structure either permanently sealed or locked so as to prevent unauthorized entry; and
- e windows, doors and any other openings which cannot be properly sealed to prevent wind, rain & snow from entering the building should be boarded up with a solid piece of plywood.

PART VI – ENFORCEMENT

Right of Entry

30. The Housing Committee, By-Law Enforcement Officer or other authorized person may, at all reasonable hours, and upon twenty-four (24) hours' notice to any Private Owner or Occupant, or in the case of emergency, without notice, to enter into and inspect any Property, Building or Structure that is subject to any of the terms and conditions of this by-law, for the purpose of determining whether this by-law is being complied with.

Complaints

31. Upon receiving a complaint from any person, the authority appointed by Chief and Council is authorized to investigate, enter and inspect any Property, Building, or Structure that is;

- a alleged to be causing an annoyance or disturbance in any manner specified, at any time of the day or year.
- b alleged to be non-compliant with this by-law.

Notice of Violation

32. (1) **Verbal Notice:** Upon inspection of a Property if the Housing Committee or By-law Enforcement Officer or other authority finds that the Property does not conform to any of the applicable standards prescribed in this by-law, he/she shall attempt to persuade the Private Owner or Occupant (as the case may be) to undertake the necessary action to bring the Property up to the applicable standard. The Owner or Occupant will have five (5) days to comply with this verbal notice.

(2) **Written Notice:** If the Housing Committee or By-law Enforcement Officer is unable to persuade the Owner or Occupant to correct the deficiencies in or on the Property, the Housing Committee or By-Law Enforcement Officer shall provide all Private Owners, Occupants, and persons listed on the Lot Registry, with written notice of his or her observations and a demand to cure such defects, deficiencies or violations of this by-law. The written notice will go out on the sixth (6th) day following the verbal notice and the Private Owner or Occupant will be given another twenty (20) days to comply.

(3) The notice shall be completed by the Housing Committee or By-Law Enforcement Officer or other duly appointed authority, and shall, at a minimum, contain the following information:

- a the description of the Land and or Property on which the violation occurred;
- b the particulars of the violations to this by-law, including specific reference to sections containing the applicable standards that have not been met;
- c direction as to how the violation can be brought into compliance with the by-law;
- d a twenty (20) day time period within which the violation must be brought into compliance with the by-law to avoid penalty; and
- e the contact information of the Housing Committee, By-law Enforcement Officer or other authorized authority who conducted the inspection and issued the notice under this section, including a statement that that person is authorized to vary the requirements where appropriate.

Offence

33. (1) A Private Owner or Occupant whose Property is found in a manner contrary to any provision of this by-law, or any person who causes, permits or otherwise violates any provision

of this by-law, and fails to cure such violation within the time periods prescribed herein for such cure, commits an offence.

(2) A person who interferes with or obstructs the Housing Committee or other duly appointed person in authority in the administration and enforcement of this by-law commits an offence.

(3) Where an act or omission in contravention of this by-law continues for more than one day, such act or omission shall be deemed to be a separate offence committed on each day during which it continues.

Penalty

34. A person who commits an offence is liable on summary conviction to a fine not exceeding \$1,000 and/or full reimbursement of the costs to rectify the infraction to comply with this by-law.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the Lac des Mille Lacs First Nation this _____ day of _____ 20__ in accordance with s.81 of the *Indian Act*.

Voting in favour of the by-law are the following members of the Council:

(Chief)

(Councillor)

(Councillor)

(Councillor)

(Councillor)

(Councillor)

being the majority of those members of the Council of the Band present at the aforesaid meeting of the Council.

The quorum of the Council is ____ members.

Number of members of the Council present at the meeting: ____.