

NEZAADIKAANG /
Lac des Mille Lacs First Nation
Residency By-Law

BY-LAW 17-01
A by-law to govern
residency on
Lac des Mille Lacs First Nation Reserve

BY-LAW 17-01: RESIDENCY

of the Lac des Mille Lacs First Nation.

A By-Law to govern the residence of Band Members and other persons on the Reserve

Enacted on this ____ day of _____ 20__.

WHEREAS the Lac des Mille Lacs First Nation leadership requires a by-law governing the residence of Band Members and other persons on the 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 health and welfare of the Band to regulate the residence of Band Members and other persons on 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 “LDML Reserve Residency By-law”.

Interpretation

2. In this by-law:
 - (a) Applicant for Residency means a person who has submitted an application for permission to be a resident of the Reserve.
 - (b) Band, First Nation or LDMLFN refers to the Lac des Mille Lacs First Nation.
 - (c) Band Administrator refers to the Head Administrator of the LDMLFN. The decisions and approvals of the Band Administrator are made with the full direction and support of Chief and Council
 - (d) Band Member refers to an individual who is a registered Band Member of LDMLFN and whose name appears on LDMLFN membership list.
 - (e) 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.
 - (f) Community Member refers to an Immediate Family Member or Extended Family Member of a Band Member, who is not a registered Band Member.

- (g) Chief and Council refers to the governing body composed of those persons elected pursuant to the *Custom Leadership Selection Code* of LDMLFN.
- (h) Child includes a child born in or out of wedlock, a legally adopted child, a child adopted in accordance with Indian custom, or a person that has not reached the age of majority in the care and custody of a duly appointed guardian.
- (i) Descendant is a person that is a Child, grandchild or other lineal descendant of a registered Band Member.
- (j) Dependent Child means a child under the age of majority or who, as a result of other mental or physical infirmity, derives his or her main support from a parent or guardian.
- (k) Dwelling refers to any building which is primarily used for the dwelling of persons, and includes a single family home, semi-detached home, duplex, or a Dwelling Unit in a multi-unit building, including but not limited to any modular, prefabricated, or mobile home that may be described as a home, house, cottage, seasonal home and/or camp.
- (l) Extended Family Member refers to a niece, nephew, aunt, uncle, cousin, mother-in-law, father-in-law, daughter-in-law, son-in-law, brother-in-law, and sister in-law.
- (m) 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.
- (n) Immediate Family Member refers to spouse, common-law spouse, child or legal guardianship, mother, father, brother, sister, son, daughter, grandmother, grandfather, grandchildren.
- (a) 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.
- (o) Membership Code refers to the code that governs LDMLFN’s Band Membership. (Currently under consideration)
- (p) 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.
- (q) Resident means any person authorized by this by-law to reside on the Reserve, but does not include a Temporary Visitor to the Reserve.

- (r) Resident List is a list of individuals residing on the Reserve. It includes but is not limited to:
- (i) the name of each Resident
 - (ii) indication whether each Resident is a resident for an indefinite or defined period
 - (iii) the length of any defined period of residency
 - (iv) a copy of all application forms submitted for residency
 - (v) the location of each Residents' dwelling.
- (s) Temporary Visitor means any person staying on Reserve as a guest to a Resident, such stays are not to exceed fourteen (14) consecutive days; or more than twenty (20) days in any given thirty (30) day period; or more than ninety (90) days in any given one hundred fifty (150) day period.

Application of By-law

3. The provisions in this by-law apply to all lands of the Reserve.

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 - RESIDENCY

Entitlement to Reside on Reserve

5. Every Band Member is entitled to reside on Reserve unless subject to exceptions set out herein, or to a specific Band Council Resolution to the contrary being in effect. When taking into account one's Entitlement to reside on Reserve, the following will apply:
- a. Any provisions regarding Residency in this by-law are subject to the provisions of the *Family Homes on Reserve and Matrimonial Interests and Rights Act*, or any other by-law enacted by LDMLFN thereunder.
 - b. Any entitlement to reside on Reserve recognized or created by this by-law does not create the right to occupy a Dwelling on Reserve. Nor does it create an obligation upon LDMLFN to provide a Dwelling.
 - c. A person who is not a Band Member may only become a Resident by applying to Chief and Council to be designated a Resident.
 - d. A person who is not a Band Member who has been granted permission to reside on the Reserve for a defined period is not entitled to reside on the Reserve after the end of that defined period.
 - e. A person who is not a Band Member who wishes to extend a defined period for which permission to reside on the Reserve was previously granted, must re-apply to Chief and Council.

- f. An Immediate Family Member of a Resident who is entitled to reside on Reserve and who actually resides with the Resident is entitled subject to any exceptions set out herein or to a specific Band Council Resolution to reside on Reserve without applying until such time the Resident ceases to reside on the Reserve.
- g. Community Members who actually reside with their respective Band Member who have not had their entitlement to reside on Reserve revoked, are entitled to reside on Reserve without applying.

PART IV – APPLICATION TO BE A RESIDENT

Criteria

6. Any person may apply to Chief and Council for permission to be a Resident of the Reserve or to extend any defined period for which permission was previously granted to the person by Chief and Council to be Resident of the Reserve.

Application

7. The application to be a Resident shall be filed with the Housing Committee or such other person or authority appointed by Chief and Council from time to time, and shall include:
- a. the applicant's reason for applying to be a Resident;
 - b. if the applicant proposes to reside on the Reserve for a limited time, the approximate duration of the proposed residence;
 - c. the names of any Immediate Family Member or Extended Family Member currently residing on the Reserve;
 - d. the location at which the applicant proposes to reside;
 - e. how the applicant intends to contribute to the LDMLFN community;
 - f. the name of the applicant's Immediate Family Members (whether on or off Reserve) if any; and
 - g. any additional information the applicant wishes to provide relating to the decision of residency.

Considerations

8. In determining whether an application for permission to be a Resident of the Reserve should be granted, the Chief and Council shall take into consideration each of the following:
- a. whether the Applicant for Residency has arranged for a place to reside on the Reserve;
 - b. whether the Applicant for Residency has Immediate Family Members or Extended Family Members currently residing on the Reserve;
 - c. whether the Applicant for Residency residing on the Reserve would be compatible with the culture, society and community of the LDMLFN and welfare of the members of LDMLFN residing on the Reserve;
 - d. whether the Applicant for Residency is of good moral character;
 - e. whether the Applicant for Residency is or will be employed on or by the Reserve; and
 - f. any other consideration that, in the opinion of the Chief and Council, is relevant to the health, safety, good order and advancement of the LDMLFN.

Fees

9. LDMLFN reserves the right to impose a fee to remove any financial burdens incurred by the First Nation for services provided to a person who is not a Band Member other than Descendants of a Band Member. This fee may include but not limited to application costs, social, municipal and/or educational services.

PART V – APPLICATION PROCESS

The Process

10. Any person may apply to Chief and Council for permission to be a Resident of the Reserve or to extend any defined period for which permission was previously granted to the person by Chief and Council to be a resident of the Reserve.

- a. The Applicant for Residency must file a correct and completed Application for Residency Form. *See Appendix A – Application for Residency Form.*
- b. Chief and Council will review the Application for Residency at the next scheduled Chief and Council meeting.
- c. The Applicant will be notified within fourteen (14) days of the Chief and Council meeting of the decision.
- d. Where Chief and Council have granted permission to reside on Reserve it must be done in writing and must stipulate either an indefinite period until such time the applicant ceases to reside on Reserve or define a period of residency.
- e. Where an application is refused, the Chief and Council shall give written notice of its decision to the applicant, which will incorporate reasons in support of its decision.
- f. Where an application is refused, the Chief and Council is not required to consider any further application by that person for a period of one (1) year from the date of the refusal, unless the applicant can show that there has been a material change of circumstances.
- g. A person, whether a Band Member or not, who has ever, at any time prior to making the application for residency has been removed or banished from the Reserve by Band Council Resolution is not eligible to be granted residency unless Chief and Council specifically rescinds the resolution that effected the removal of the person from Reserve.

11. All applications made for permission to be a Resident of the Reserve, and all decisions of Chief and Council made in writing shall be placed into the Residency List maintained by the Housing Committee or such other person or authority as is appointed by Chief and Council from time to time.

PART VI – REVOCATION OF ENTITLEMENT TO RESIDE

Criteria for Revocation of Entitlement

11. (1) LDMLFN regards the elimination of all abuse, illicit drug trade and other indictable offences and its various destructive effects on the community to be one of its major priorities in providing and maintaining a safe and healthy community. This is consistent with Chief and Council's statutory obligations to promote law and order and the general welfare of the LDMLFN community. LDMLFN recognizes that these indictable offences are a significant

detriment to a healthy, safe and lawful community that Chief and Council strive towards for their Residents and Band Members.

(2) A person's residency may be terminated if the following findings have been made against the person by Chief and Council:

- a. that the person presents a threat to the peace and order of the Reserve by being involved in criminal activities;
- b. that the person has been convicted of assaulting another human being;
- c. that the person sells illicit drugs;
- d. that the person has, in any other manner, by way of an indictable offence, caused physical or emotional harm, or direct financial harm to another Resident or to LDMLFN.

(3) The revocation of a Resident's entitlement to reside on the Reserve shall not affect the entitlement of the Immediate Family Members to continue to reside on the Reserve as long as such Immediate Family Members' residence has not also been revoked and such persons are otherwise entitled to reside on the Reserve as a Band Member or Community Member.

PART VI – PROCEDURE FOR TERMINATION OF RESIDENCY

Termination of Residency Entitlement

12. (1) Chief and Council may, upon receiving a complaint under this by-law from a Band Member, or by Chief and Council's own initiative, convene a Chief and Council meeting to consider termination of the residency on the Reserve where the complaint involves an allegation enumerated under this By-law.

(2) Chief and Council will notify the affected Resident in writing fourteen (14) days prior to the scheduled Chief and Council meeting to review the termination of residency. The affected Resident will be notified of the date, time and place and their right to respond to the allegations.

(3) The affected Resident will be entitled to make submissions at the Chief and Council meeting either in writing or orally.

(4) Chief and Council, in making any determination of revocation of residency, must have unanimous agreement to terminate residency of a person currently residing on reserve.

(5) Chief and Council will have ten (10) days to notify the person of the revocation of residency once the decision has been made. The notification will include written reason in support of revocation, thirty (30) days to terminate residency on the Reserve and it will be hand delivered by an authorized person or authority designated by Chief and Council.

PART VII – ENFORCEMENT

Authority

13. The Housing Committee and/or By-Law Enforcement Officer and/or any other person or authority as designated by Chief and Council, may order any person who is residing on the Reserve, and who is not a Resident, to cease to reside on the Reserve.

Offence

14. (1) Any person who fails or refuses to comply within thirty (30) days of an order to cease to reside on the Reserve made in accordance with this by-law commits an offence.

(2) Any person who assists a person who has been ordered to cease to reside on the Reserve in accordance with this by-law, to continue to reside on the Reserve commits an offence.

Penalty

16. A person who is found guilty of an offence under the Residency By-Law is subject to a fine in an amount not to exceed \$1,000.00 per occurrence, or Revocation of Residency as is otherwise permitted and in accordance with the provisions of 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: ____.

APPENDIX A

**NEZAADIKAANG / LAC DES MILLE LACS FIRST NATION
APPLICATION FOR RESIDENCY FORM**

- Confidential Information -

I, _____, am requesting authorization from Chief and Council to reside on the Lac des Mille Lacs First Nation Reserve.

Legal Name of Applicant: _____

Date of Birth: _____

Gender: Male ___ Female ___

Your current address: _____

Phone number: _____

Present Band Name and Number (if applicable): _____

Marital Status: _____

Spouse Name: _____

Spouse's Band Name and Number (if applicable): _____

Name & Ages of Dependent Children: _____

Describe how your vision and contribution to the community of LDMLFN:

INT. _____

By signing below, I/We declare that all of the information contained in this application is complete and accurate in every respect.

By signing below, I/We agree to adhere to the Housing Policy and By-Laws enacted or amended by LDMLFN from time to time.

Finally, I/We understand that completion of this application does not guarantee permission to reside on LDMLFN Reserve Land.

Print Name: _____

Signature: _____

Date: _____

LAC DES MILLE LACS FIRST NATION RESERVES THE RIGHT TO REVOKE PERMISSION TO RESIDE ON RESERVE LANDS AT ANY TIME

Internal Use:	
Date presented to Chief and Council:	_____
Date Approved by Chief and Council:	_____
Date Denied by Chief and Council:	_____
Explanation of Denial:	_____
_____	_____
