

NEZAADIKAANG /
Lac des Mille Lacs First Nation
Yard-Maintenance By-Law

BY-LAW 17-05

A by-Law to set the standards for the
yard-maintenance of property on
Lac des Mille Lacs First Nation Reserve

BY-LAW 17-05: YARD-MAINTENANCE

of the Lac des Mille Lacs First Nation.

A By-Law to set the standard for yard-maintenance 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 standard for yard maintenance 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 development and safeguard of the Reserve to regulate the yard maintenance 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 Yard-Maintenance By-Law”.

Interpretation

2. In this by-law:

- (a) Band, First Nation or LDMLFN refers to the Lac des Mille Lacs First Nation.
- (b) Balcony means an open porch or deck whether at grade level or affixed to upper levels.
- (c) 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.
- (d) Building refers to any structure used or designed to be used for shelter, accommodation or enclosure of persons, animals, or chattels.
- (e) Chief and Council, or Band Council refers to the governing body composed of those persons elected pursuant to the *Custom Leadership Selection Code*.
- (f) 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, pipefitting’s, water 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;
 - (xi) inoperative Motor Vehicles;
 - (xii) motor Vehicle parts;
 - (xiii) mechanical equipment or equipment parts placed in a condition or location where they cannot be used for their intended purposes;
 - (xiv) earth or rock fill;
 - (xv) clothing or other household linens lying in an unprotected condition;
 - (xvi) objects or conditions that may create a health, fire or accident hazard; and
 - (xvii) animal feces.
- (g) Graffiti refers to any word, figures, letters, numbers or drawings sprayed, scribbled, scratched, etched or otherwise applied on a surface.
- (h) 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.
- (i) Indoor furniture refers to furniture that is manufactured for interior use and includes automotive seats and similar seating contrivances
- (j) 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;
- (k) 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.
- (l) Land refers to real property, 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.
- (m) Last Known Address refers to the address which appears on the Lot Registry maintained by the Housing Committee of LDMLFN.

- (n) 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.
- (o) Lot Registry means the records kept for each Lot in accordance with the policies adopted by LDMLFN from time to time.
- (p) Maintenance refers to minor repairs and upkeep of a Lot, property, Building or Dwelling Unit to an acceptable condition of this policy.
- (q) Naturalization means a less restricted and more natural process of plant material growth allowing a less ornamental landscape.
- (n) Occupant refers to any person or persons who reside on the Reserve and is either an owner or tenant of Land.
- (o) 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.
- (p) Ornamental plant means a plant deliberately grown for beautification, screening, accent, specimen, color or other aesthetic reasons but does not include any variety of turf grass.
- (q) 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.
- (r) 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.
- (r) Watercourse means an identifiable depression in the ground which a natural flow of water occasionally, regularly or continuously occurs, but does not include a swale, shaped or graded in earth materials and stabilized with site suitable vegetation for the conveyance of storm water runoff.
- (s) Yard refers to the unoccupied space, located on the same Lot as the 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 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 - GENERAL YARD-MAINTENANCE PROVISIONS

Vegetation- Weed Control

5. Every Private Owner or Occupant of Land shall keep vegetation in the Yard of their Land clean and cleared up, unless one of the following apply:

- a crops are being grown on a farm; or
- b the Land is considered rural property, as defined by the LDMLFN Zoning By-Law, or
- c the Private Owner or Occupant has chosen a naturalization approach to landscaping.

Debris

6.(1) Every Private Owner or Occupant shall keep the Yard of their Land free and clear of all debris.

(2) Every Private Owner or Occupant shall ensure that all waste which accumulates on their Land is kept in containers:

- a made of rigid, watertight construction;
- b provided with a tight fitting cover for the purposes of odor control, preventing the intrusion of pests, such covers may be removed only when the container is empty or is being actively loaded;
- c maintained in good condition without holes or spillage;
- d closed, or emptied, rinsed and cleaned when not in use, to prevent the escape of offensive odor or waste;
- e unless not practical, be kept in a rear yard located against a building, structure, fence or retaining wall and arranged in orderly manner so as not to be visually offensive when viewed from surrounding properties, and not allowed to accumulate for longer than seven (7) calendar days.

(3) Nothing in this section prevents the legitimate filling and temporary outside storage of blue box type containers or compostable yard waste bags so long as they are being managed, stored and in compliance with section 6 (1) and (2).

(4) Every Private Owner or Occupant of Land where an exterior bulk or roll-off container disposal system is used shall ensure the containers are:

- a equipped with covers or similar devices which shall readily operable but not left open except when actively being loaded;
- b large enough to contain all waste generated between collections by the occupants served;
- c not loaded beyond the top of the container;
- d free of offensive odors; and
- e do not weep or discharge effluent onto the surrounding environment.

(5) Every Private Owner or Occupant shall ensure that each compost heap on their Land meets the following requirements:

- a has maximum size of 1cubic metre (10.8 cubic feet);
- b is located a minimum of 1metre (3.28feet) from any property line;
- c is located a minimum of 3metres (9.8feet) from a neighbouring dwelling
- d is enclosed on all sides by concrete blocks, a lumber structure, a metal frame, or a commercial plastic compost container;
- e is free of offensive odors; and
- f does not negatively affect enjoyment of surrounding properties.

(6) Firewood shall be stacked no less than 1 m (3.28 feet) from all property lines and shall be stacked in a manner and height so as not to present a hazard or negatively affect adjacent Lands.

Balconies and Carports

7. (1) Every Private Owner or Occupant shall not use a balcony except as per its universally intended and accepted use predominantly as outdoor living space.

(2) Every Private Owner or Occupant of Land that contains a balcony or carport shall maintain the balcony and carport free of accumulation of unsightly materials or objects.

(3) No person shall use a balcony for the storage or placement of waste.

(4) No person shall use a carport for storage of waste except as permitted in section 6.

(5) No person shall use or store anything on a balcony in a manner to diminish the safety factor afforded by guardrails.

(6) No person shall use or store anything on a balcony or guardrail to present falling hazards to below.

(7) No person shall use cooking appliances on a balcony unless the appliances are certified and located as per their intended use and as per provincial regulations.

(8) No person shall place indoor furniture on the outside of a Dwelling Unit.

Graffiti

8. (1) Every Private Owner or Occupant of Property shall clean the exterior of any Building, Structure, erection, or object on their Property of graffiti, except any non-objectionable graffiti applied with the prior written authority of the Private Owner or Occupant.

(2) For the purposes of section 8, “building, structure, erection or object” in addition to the definition otherwise set out herein and the definition hereof also includes but is not limited to a fence, retaining wall, paved or similarly finished surface, vehicle, trailer or waste container.

Health and Safety

9. (1) Every Private Owner or Occupant of Property shall ensure that any well, cistern, cesspool, privy vault, pit or excavation:

- a in active use, is secured by a fence with a warning signs;
- b not in active use, is permanently sealed or secured by a fence, cover or other means in compliance with relevant municipal or provincial standards and regulations.

(2) Every Private Owner or Occupant of Land shall keep the surfaces of steps, walks, driveways, parking spaces and similar areas of their Land maintained so as to afford safe passage under normal and reasonably contemplated use and weather conditions.

(3) Every Private Owner or Occupant shall keep the Yard of their Land clean and free from any objects or conditions that might create a health, fire or accident hazard or an unsafe condition for persons, animals or property, including stagnant and/or untreated contained water.

PART IV – ENFORCEMENT

Right of Entry

10. (1) The Housing Committee, By-law Enforcement Officer or other duly appointed authority may, at all reasonable hours, and upon twenty-four (24) hours prior notice to any Private Owner or Occupant, or, in the event of emergency, without notice, enter into and inspect any Land, Building, Structure or other Property 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

11. 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 Offence

12. (1) **Verbal Notice:** Upon inspection of the Property if the Housing Committee, By-law Enforcement Officer or other duly appointed authority finds that the Land does not conform to any of the applicable standards prescribed in this by-law, he/she shall attempt to persuade the Owner or Occupant to undertake the necessary action to bring the Land 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, By-Law Enforcement Officer or other duly appointed authority is unable to persuade the Owner or Occupant to correct the deficiencies in or on the Land, the authority 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 correct the defects, deficiencies or violations. The written notice will go out on the sixth 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, 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 violation 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;
- e the contact information of the Housing Committee, By-law Enforcement Officer, or other duly appointed 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

13. (1) A person whose Land is found in a manner contrary to any provision of this by-law and who fails to rectify such defect, deficiency or violation within the time period prescribed therefore after receipt of written notice, or who willingly causes, permits or otherwise violates any provision of this by-law, commits an offence.

(2) A person who interferes with or obstructs the Housing Committee or By-law Enforcement Officer or other appointed 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

14. 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: ____.