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LAX KW'ALAAMS FIRST NATION

BY-LAW NO. 2013-01

Being a by-law respecting the regulation of derelict premises on Lax Kw'alaams Lands

PREAMBLE

WHEREAS section 81 of the *Indian Act* empowers the Council of a Band to pass by-laws for any or all of the following purposes, namely:

to provide for the health of residents on the reserve (paragraph 81(1)(a));

to prevent disorderly conduct and nuisances (paragraph 81(1)(d));

to regulate the construction, repair and use of buildings (paragraph 81(1)(h));

with respect to any matter arising out of or ancillary to the exercise of the aforementioned powers (paragraph 81(q));

AND WHEREAS Council for the Lax Kw'alaams First Nation deems it advisable and in the best interests of Lax Kw'alaams First Nation to enact a by-law to regulate derelict premises on Lax Kw'alaams Lands;

NOW THEREFORE Council of Lax Kw'alaams First Nation hereby enacts this Derelict Premises By-law, Number 2012-___.

PART 1 – GENERAL

Short Title

1. This by-law may be cited as “Lax Kw'alaams Derelict Premises By-Law”.

Division of Parts

2. This by-law as a matter of convenience and for reference only is divided into 4 parts titled as follows:

PART 1 – GENERAL
PART 2 – ADMINISTRATION
PART 3 – PROHIBITIONS
PART 4 – ENFORCEMENT

Definitions

3. Unless the context otherwise requires, in this by-law:

“**Council**” means Council of Lax Kw'alaams First Nation, as defined in the *Indian Act*;

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Lax Kw'alaams administrative office building and make a copy available for distribution.

PART 3 – PROHIBITIONS**Prohibition against derelict premises**

6. No person holding, controlling, occupying or residing in premises on Lax Kw'alaams Lands shall, by any act or omission, cause, allow or permit such premises to become derelict premises.

PART 4 – ENFORCEMENT**Authority to enter property for inspection**

7. (1) In this section, an “authorized person” is a Lax Kw'alaams Law Enforcement Officer and may enter onto and into any premises, but only in accordance with this section and only to the extent necessary to inspect and determine whether the provisions of this by-law and any additional requirements and regulations made pursuant to this by-law are being met.
- (2) An authorized person may enter onto and into a premises that is reasonably believed to be unoccupied without the consent of the registered holder of the parcel of land, but only if the authorized person has provided the registered holder with seventy-two (72) hours' written notice of the entry and the reasons for it.
- (3) An authorized person may enter onto and into an occupied premises but only if:
 - (a) the occupier consents;
 - (b) the authorized person has given the occupier at least seventy-two (72) hours' written notice of the entry and the reasons for it;
 - (c) the authorized person has obtained a warrant; or,
 - (d) the authorized person has reasonable grounds for believing that failure to enter may imminently result in a significant risk to the health or safety of the occupier or other persons on Lax Kw'alaams Lands.

Written Order

8. Where a Lax Kw'alaams Law Enforcement Officer determines that a person is violating section 6 [*prohibition against derelict premises*], they may issue a written order to that person requiring that any or all conditions giving rise to the violation be remedied, which order must include the language in section 9 [*effecting compliance*] and section 15 [*days deemed separate offences*].

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(b) suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this by-law,

(c) neglects to do or refrains from doing any act or thing required by any of the provisions of this by-law,

is guilty of an offence under this by-law, and is liable to the penalties imposed by this by-law.

Days deemed separate offences

15. After the expiration of the thirty (30) day period in section 9 [effecting compliance], each day a violation of this by-law continues will be deemed to be a separate offence for which a fine may be imposed in accordance with section 16 [penalties].

Penalties

16. Any person who is guilty of an offence under this law is liable for the penalties specified in Schedule "A" or, if the offence is not listed in Schedule "A", is liable on summary conviction to a fine of not more than one thousand dollars (\$1,000) or a term of imprisonment not exceeding thirty (30) days or both.

Severability

17. If any portion of this by-law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid portion will be severed from and not affect the remaining provisions of this by-law.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the Lax Kw'alaams First Nation this 30th day of January, 2013.

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

<u>Harry Reese</u>	<u>Stan Dancer</u>
<u>Heleen Johnson</u> Deputy Mayor	<u>Arden V. S.</u>
<u>Barbara King</u>	<u>Victor Kelley</u>
<u>Lawrence Sanku</u>	<u>R. Hughes</u>

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SCHEDULE "A"**PENALTIES**

INFRACTION	FIRST OFFENCE	SECOND AND SUBSEQUENT OFFENCES
Derelict Premises (section 6)	Written warning or written order, with a discretionary fine maximum \$50.	Written order, with a discretionary fine maximum \$200.
Failure to comply with written order (section 8)	Discretionary fine maximum \$250.	Discretionary fine maximum \$500.
Failure to pay costs (sections 12)	Written warning, with a discretionary fine maximum \$50.	Discretionary fine maximum \$200.
Interference with enforcement (section 13)	Written warning, with a discretionary fine maximum \$300.	Discretionary fine maximum \$1000 or upon summary conviction, maximum 10 days imprisonment or both.