



**GITWINKSIHLKW VILLAGE GOVERNMENT**

# **UNSIGHTLY PREMISES ACT**

Gitwinksihlkw Village Government enacted this law on \_\_\_\_\_

Signed by \_\_\_\_\_

Chief Ron Nyce

Chief Councillor of the Gitwinksihlkw Village Government

UNSIGHTLY PREMISES ACT

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## UNSIGHTLY PREMISES ACT

**Interpretation**

## 1. In this Act:

“garbage” means any discarded or abandoned waste material, substance or object, which is or may become offensive or prejudicial to health or to public safety or harmful to the quality of the environment including, but not limited to, the following types of materials:

- (a) loose garbage;
- (b) bottles, cans, boxes or packaging materials;
- (c) household furniture or other household goods;
- (d) motorized vessels, vehicles or trailer parts or all or part of any motor vehicle that is not registered and licensed in accordance with the *Motor Vehicle Act* (British Columbia), not capable of movement under its own power or not operational for more than one month in any 12 month period;
- (e) parts of or disassembled machinery, equipment or appliances;
- (f) yard waste, including grass, tree and hedge cuttings, but excluding ground cover and the contents of a composting pile;
- (g) construction, demolition or land clearing waste; and
- (h) all or part of any dead fish, bird or animal.

“Enforcement Officer” means a person appointed as an enforcement officer under section 3 for the purposes of enforcing this Act and carrying out the obligations of the Enforcement Officer under this Act, a member of the Nisga’a Police Service, or a member of the Royal Canadian Mounted Police;

“Nisga’a Village” means the Village of Gitwinksihlkw;

“Nisga’a Village Government” means the governing council of the Nisga’a Village; and

“property” means:

- (a) vacant land; and
- (b) the land surrounding a residence or business which the owner lawfully possesses or controls.

**Application**

2. This Act applies to all lands and persons within the jurisdiction of the Nisga’a Village.

**Enforcement Officer**

3. The Nisga’a Village Government may appoint one or more Enforcement Officers to enforce this Act.

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**Accumulating or Disposing of Garbage**

4. No person may:
- (a) accumulate garbage on any property, except to allow the garbage to be collected by a garbage collection service within 12 hours;
  - (b) dispose of garbage anywhere other than at a landfill site designated by the Nisga'a Village Government; or
  - (c) allow the burning of garbage at any time.

**Interference with Enforcement Officer**

5. No person may interfere with an Enforcement Officer exercising a power or carrying out a duty under this Act.

**Remedial Action Requirements**

6. (1) The Nisga'a Village Government may impose remedial action requirements in relation to matters or things referred to under subsections (3), (4) or (5).
- (2) In the case of matters or things referred to in subsections (3), (4) or (5), the remedial action requirement
- (a) may be imposed on one or more of:
    - (i) the owner or lessee of the matter or thing, or
    - (ii) the owner or occupier of the property on which the matter or thing is located, and
  - (b) may require the person to:
    - (i) remove or demolish the matter or thing,
    - (ii) fill it in, cover it over or alter it,
    - (iii) bring it up to a standard specified by an enactment, or
    - (iv) otherwise deal with it in accordance with the directions of the Nisga'a Village Government or a person authorized by the Nisga'a Village Government.
- (3) If the Nisga'a Village Government considers that the matter or thing is or creates an unsafe condition or contravenes the *British Columbia Building Code* or the Nisga'a Village *Building Regulations Act*, the Nisga'a Village Government may impose a remedial action requirement in relation to any of the following:
- (a) a building or other structure, an erection of any kind, or a similar matter or thing;
  - (b) a natural or artificial opening in the ground, or a similar matter or thing;
  - (c) a tree;
  - (d) wires, cables, or similar matters or things, that are on, in, over, under or along a road;
  - (e) matters or things that are attached to a structure, erection or other matter or thing referred to in paragraph (a) that is on, in, over, under or along a road.
- (4) The Nisga'a Village Government may declare that any of the following is a nuisance and may impose a remedial action requirement in relation to the declared nuisance:

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- (a) a building or other structure, an erection of any kind, or a similar matter or thing;
  - (b) a natural or artificial opening in the ground, or a similar matter or thing;
  - (c) a drain, ditch, watercourse, pond, surface water, or a similar matter or thing;
  - (d) a matter or thing that is in or about any matters or things referred to in paragraphs (a) to (c).
- (5) The Nisga'a Village Government's authority under subsections (1) and (2) also applies in relation to a thing that the Nisga'a Village Government considers is so dilapidated or unclean as to be offensive to the community.
  - (6) The order of the Nisga'a Village Government imposing a remedial action requirement must specify the time by which the required action must be completed, which time must not be earlier than 30 days after the notice under subsection (8) is sent to the person subject to the remedial action requirement.
  - (7) The Nisga'a Village Government may extend the time for completing the required action even though the time limit established pursuant to subsection (6) has expired.
  - (8) Notice of a remedial action requirement must be given by personal service or by registered mail to the person subject to the requirement and the owner of the property where the required action is to be carried out.
  - (9) In addition, notice of the remedial action requirement must be mailed to each holder of a registered charge in relation to the property subject to the remedial action requirement and any other person who is an occupier of that property.
  - (10) A notice under subsections (8) or (9) must advise that
    - (a) the person subject to the requirement, or the owner of the property where the required action is to be carried out, may request a reconsideration by the Nisga'a Village Government by written notice provided to the Nisga'a Village Government within 14 days of the date on which the notice under subsection (8) was sent, or a longer period permitted by the Nisga'a Village Government, and
    - (b) if the action required by the remedial action requirement is not completed by the date specified for compliance, the Nisga'a Village may take action to fulfill the requirement at the expense of the owner, which expense will be recoverable by the Nisga'a Village as a debt due by the owner of the property to the Nisga'a Village.
  - (11) If the Nisga'a Village Government receives a request for reconsideration in accordance with subsection 10(a), the Nisga'a Village Government must provide the person with an opportunity to make representations to the Nisga'a Village Government and after providing such opportunity, the Nisga'a Village Government may confirm, amend or cancel the remedial action requirement.
  - (12) The authority of the Nisga'a Village Government to impose remedial action requirements under this Act includes the authority to direct that, if the person subject to the requirement fails to take the required action, the Nisga'a Village may fulfill the requirement at the expense of that person and recover the costs incurred from that person as a debt.

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**Enforcement Officer's Powers**

7. (1) An Enforcement Officer may inspect any property during reasonable business hours to determine whether the provisions of this Act are being observed. The right of the Enforcement Officer to enter the property does not include the right to enter a private dwelling except with consent of the occupier.
- (2) If an Enforcement Officer is of the reasonable opinion that the owner or person in control or possession of the property has accumulated, deposited or disposed of garbage in a manner that contravenes this Act, the Enforcement Officer may give the owner or person in control of the property, as the case may be, a written order to collect and properly dispose of the garbage.
- (3) An order sent under subsection (2), may be:
- (a) sent by mail to the owner or person in control or possession of the property;
  - (b) delivered by hand to the owner or person in control or possession of the property or by leaving it with a person over the age of sixteen years at the dwelling house of the owner or person in control of the property; or
  - (c) given by posting the order at the property,
- and will be deemed to have been delivered:
- (d) if mailed, on the fifth day following the date it is mailed to the mailing address of the owner or person in control or possession of the property;
  - (e) if delivered by hand, immediately upon being delivered to or being left at the residence of the owner or person in control or possession of the property; or
  - (f) if posted, on the fifth day following the date it is posted at the property.
- (4) A person given an order under subsection (2) must collect and properly dispose of the garbage in the manner and within the time specified in the order.
- (5) If the owner or person in control or possession of the property, as the case may be, does not comply with an order given under subsection (2), the Enforcement Officer may collect and dispose of the garbage or have the garbage collected and disposed of, as specified in the order, and all reasonable costs associated with such collection and disposal will be charged to the owner or person in control or possession of the property, as the case may be.
- (6) The costs referred to in subsection (5) are recoverable by the Nisga'a Village as a debt due from the owner or person in control or possession of the property to the Nisga'a Village.

**Offence, Penalties and Enforcement**

8. (1) A person who contravenes sections 4, 5 or 7(4) of this Act, who suffers or permits any act to be done in violation of sections 4, 5 or 7(4) of this Act, or who fails or neglects to do anything required to be done by this Act commits an offence.
- (2) Each day that a violation occurs or is permitted or continues shall constitute a separate offence.
- (3) This Act may be enforced:

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- (a) under the *Nisga'a Offence Act*;
  - (b) by issuing a ticket for contravention in accordance with any Nisga'a Village Government ticketing law as may be adopted or amended from time to time; or
  - (c) by issuing a ticket under any applicable enactment by the Nisga'a Lisims Government authorizing the Nisga'a Village Government to issue tickets, fines or penalties in respect of a contravention of this Act.

**Commencement**

9. This Act comes into force on the date of adoption.

**Unsightly Premises Act Read a first time** the \_\_\_\_ day of \_\_\_\_\_, 2014.

**Unsightly Premises Act Read a second time** the \_\_\_\_ day of \_\_\_\_\_, 2014.

**Unsightly Premises Act Read a third time** the \_\_\_\_ day of \_\_\_\_\_, 2014.

**Unsightly Premises Act Adopted** the \_\_\_\_ day of \_\_\_\_\_, 2014.

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**Chief Councillor**

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**Chief Executive Officer**