

**KWANLIN DÜN FIRST NATION
MCINTYRE GREENBELT ZONING ACT**

An Act respecting the greenbelt land-use zones of the McIntyre neighbourhood.

WHEREAS the land described as "C-41B" is Kwanlin Dün First Nation Settlement Land in accordance with the *Kwanlin Dün First Nation Final Agreement*;

WHEREAS the Kwanlin Dün First Nation has the power to enact laws of a local or private nature on Settlement Land in relation to planning, zoning and land management pursuant to Article 13.3.11 of the *Kwanlin Dün First Nation Self Government Agreement*;

WHEREAS the *City of Whitehorse Zoning Bylaw, 2006-01*, adopted on March 27, 2006, in conformance with the *Municipal Act, Chapter 119, R.S.Y.T., 2002*, provides the basis by which the City of Whitehorse creates land-use zones within its municipal boundaries;

WHEREAS Map 13 of the *City of Whitehorse Zoning Bylaw* creates land-use zones for the lands contained within the land described as "C-41B";

WHEREAS the Kwanlin Dün First Nation seeks to rezone parts of "C-41B" in accordance with this Act;

NOW THEREFORE the majority of a quorum of the Chief and Councillors present at a meeting of the Council duly convened enacts the following Act:

1. This Act may be cited as the *McIntyre Greenbelt Zoning Act*.
2. In this Act,
 - (a) "C-41B" means the land parcels described in Schedule A of the *Kwanlin Dün First Nation Final Agreement* and shown as "C-41B-1" to "C-41B-8" inclusive in Appendix B of the *Kwanlin Dün First Nation Final Agreement*, on Sheet 40, Map Sheet 105 D/11 - McIntyre Area, City of Whitehorse, Canada Land Survey Records no. 89779, dated February 19, 2005; and
 - (b) "Director of Lands" means the senior employee of the government of the Kwanlin Dün First Nation responsible for the administration and management of Kwanlin Dün First Nation Settlement Lands;
 - (c) "Judicial Council" means the Judicial Council of the Kwanlin Dün First Nation, pursuant to the *Constitution of the Kwanlin Dün First Nation*; and
 - (d) "Public Greenbelt" means the land zone and associated purposes, uses, and regulations described in Schedule A, attached, which shall have the same meaning as "Public/Institutional Greenbelt" in section 12.2 of the *City of Whitehorse Zoning Bylaw, 2006-01* on the date this Act comes into force.

3. Unless authorized in accordance with law or by resolution of the Council, no person shall use land that is zoned pursuant to this Act for any purpose or use that is contrary to this Act.
 4. All lands within "C-41B" that were zoned "Future Development" under *City of Whitehorse Zoning Bylaw 2006-01* when this Act comes into force are hereby zoned "Public Greenbelt".
 5. All lands within "C-41B" that were zoned "Public/Institutional Greenbelt" under *City of Whitehorse Zoning Bylaw 2006-01* when this Act comes into force are hereby zoned "Public Greenbelt".
 6. That portion of "C-41B" described as "C-41B-1" that was zoned "Commercial Neighbourhood" under *City of Whitehorse Zoning Bylaw 2006-01* when this Act comes into force, and which is also known as Lot 736, is hereby zoned "Public Greenbelt".
 7. Where the Director of Lands reasonably believes that a person is not in compliance with this Act, the Director of Lands may order that person to:
 - (a) cease their activity;
 - (b) remove any improvements made by that person on or to the land; or
 - (c) restore the land to a condition satisfactory to the Director of Lands.
 8. A person to whom an order is made shall comply with that order within thirty days or after such a period of time as the Director of Lands may specify in an order made pursuant to section 7 of this Act.
 9. Any person subject to an order made pursuant to section 7 may within the time for compliance with that order, by notice in writing delivered to the Judicial Council setting out the grounds, appeal the order to the Judicial Council, which may by order:
 - (a) affirm the order with or without amendments; or
 - (b) set aside the order.
- The appellant and the Director of Lands shall each have the right to present evidence to the Judicial Council and be heard in respect of the appeal.
10. If a person to whom an order is made pursuant to section 7 or 9 of this Act fails to comply with its terms, the Kwanlin Dūn First Nation may apply to the Supreme Court for:
 - (a) an injunction ordering that person to comply with an order made pursuant to section 7 or 9 of this Act with or without terms; or
 - (b) any other order within the competence of the court.
 11. Nothing in this Act is intended to alter:

- (a) the continued application of the *City of Whitehorse Zoning Bylaw 2006-01* to other Kwanlin Dūn First Nation Settlement Lands that have not been zoned pursuant to this Act; or
- (b) the role of the City of Whitehorse in administering the *City of Whitehorse Zoning Bylaw 2006-01* as it affects other Kwanlin Dūn First Nation Settlement Lands that have not been zoned pursuant to this Act.

12. This Act comes into force on July 31, 2007.

Schedule A

1.0 Public Greenbelt

1.1 Purpose

To provide a zone for areas of public land used primarily as walkways, trails and for unorganised or passive recreation

1.2 Principal Uses

- a) nature interpretation facilities
- b) trails

1.3 Secondary Uses

- a) accessory building/structures
- b) accessory parking

1.4 Conditional Uses

- a) day-use areas
- b) day-use cabins
- c) playgrounds