

<p>Long Plain First Nation LAND CODE January 29, 2014</p>
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NOTE: *This is a draft Land Code prepared for community discussion.
 Subject to change as further revisions are made.*

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LONG PLAIN FIRST NATION LAND CODE

Preamble

Whereas the Anishinaabe of Long Plain First Nation are represented by the Council of the Long Plain First Nation;

And Whereas the Anishinaabe have a profound relationship with the land;

And Whereas the Anishinaabe are a party to Treaty Number 1;

And Whereas the traditional teachings of the Anishinaabe speak of the special obligation to care for and respect the land and the wonders of nature created on the land;

And Whereas Long Plain First Nation wishes to manage its lands and resources, rather than having its lands and resources managed on its behalf by Canada under the *Indian Act*; by adhering to the *Framework Agreement on First Nation Land Management* concluded between Her Majesty in right of Canada and fourteen First Nations on February 12, 1996, and ratified on behalf of the Government of Canada by *The First Nations Land Management, S.C. 1999, c24*;

NOW THEREFORE, THIS LAND CODE IS HEREBY ENACTED AS THE BASE LAND LAW OF LONG PLAIN FIRST NATION:

PART 1 PRELIMINARY MATTERS

1. Title

1.1 The title of this enactment is the *Long Plain First Nation Land Code*.

2. Interpretation

2.1 The following definitions apply in this Land Code:

“**Act**” means the *First Nations Land Management Act, S.C. 1999, c24*;

~~“**Common Law Marriage/Partnership**” means two individuals not legally married to each other that have lived together as life partners for a period of time that is recognized by LPFN regulation, policy practice, custom or tradition as having established a common law marriage/partnership.¹~~

“**Community Approval**” and/or “Community Approval Meeting” means a community meeting of eligible voters held for the purpose of voting on a land issue or land law, as set out in this Land Code.

“**Community Land**” means any Long Plain First Nation land in which all LPFN citizens have a common interest.

“**Council**” means the Chief and Council of the First Nation, and any successor government of the First Nation.

“**Eligible Voter**” means, for the purpose of voting in respect of land matters under this Land Code, a member who has attained the age of eighteen (18) years of age on the day of the vote.

“**Facilitator**” means an individual appointed from the roster of appeal panelists to serve as a facilitator for the facilitated discussion stage of dispute resolution under Part 8.

“**First Nation**” means the Long Plain First Nation.

¹ January 23 Advisory Board recommended not to define this term unless there is a specific reason to do so arising from Housing.

“First Nation land” means any portion of Long Plain reserve that is subject to this Land Code under section 5.

“First Nations Land Register” means the register maintained by the Department of Indian Affairs and Northern Development under the *Framework Agreement*.

“Framework Agreement” means the *Framework Agreement on First Nation Land Management* entered into between the Government of Canada and fourteen First Nations, on February 12, 1996, as amended.

“Interest” means an interest, right or estate of any nature in or to that land, including a lease, easement, right of way, servitude, or profit à prendre, but does not include title to that land, in accordance with section 1 of the Framework Agreement.

“Land Authority” means the administrative body established to manage lands under this Land Code consistent with the Framework Agreement and First Nation Land Management Act.

“Land Code” means a code, approved by Long Plain First Nation in accordance with the *Framework Agreement on First Nation Land Management*, which sets out the basic provisions regarding the exercise of Long Plain’s rights and powers over its land.

“Land Claim Agreement” means any agreement between Long Plain and Canada and/or Manitoba that provides for the settlement of any land claim between Long Plain and any other party but does not include a voluntary agreement for an exchange of land.

“Land Law” means a law in relation to lands enacted pursuant to this Land Code.

“License” means any right of use or occupation of First Nation land other than an interest in that land in accordance with section 1 of the Framework Agreement.

“Long Plain” means the Long Plain First Nation.

“Panel” means the Dispute Resolution Panel established under Part 8.

“Meeting of members” means a meeting under section 13 to which the members are invited to attend.

“Member” means a person whose name appears or is entitled to appear on the Long Plain First Nation Band Membership List.

“Ratification vote” means a vote of eligible voters as set out in the *Long Plain First Nation Community Ratification Process*, which was used to ratify this Land Code.

“Resolution” means a resolution of the Council enacted under this Land Code.

“Spouse” means a person who is married to another person, whether by a traditional, religious or civil ceremony or common law marriage/partnership.

“Transfer Agreement” means the Individual Transfer Agreement made between Long Plain First Nation and Her Majesty in right of Canada, dated _____.

“Verifier” means the person appointed pursuant to the *Framework Agreement on First Nation Land Management* to monitor and verify the opting in process.

Lands and Interests

2.2 A reference to “land” in this Land Code means all rights and resources that belong to the land, and includes:

- (a) the water, beds underlying water, riparian rights, and renewable and non-renewable natural resources belonging to that land, to the extent that these are under the jurisdiction of Canada; and
- (b) all the interests and licenses granted to Long Plain by her Majesty in right of Canada listed in the Transfer Agreement.

Not a full expression of inherent rights

2.3 This Land Code is not a full expression of inherent rights of Long Plain First Nation.

Non-derogation

2.4 This Land Code will not abrogate or derogate from any Treaty or Aboriginal rights or freedoms that pertain now or in the future to Long Plain or its members.

Fiduciary

Relationship

2.4 This Land Code will not abrogate the Treaty relationship or general fiduciary relationship between Her Majesty and Long Plain and its members.

Access to Public Programs

2.5 This Land Code is not intended to affect eligibility or access by Long Plain or any of its Members to receive services or participate in any public or aboriginal programs and services that may be established from time to time.

Paramount

2.6 If there is an inconsistency between this Land Code and any other enactment of Long Plain, in regard to lands, including by-laws enacted pursuant to section 81 of the *Indian Act*, this Land Code prevails to the extent of the inconsistency.

Fair Interpretation

2.7 This Land Code will be interpreted in a fair, large and liberal manner to fulfill the object of this Land Code according to its true intent, meaning and spirit.

Language

2.8 The indigenous language of Long Plain may be used to clarify the meaning of any term in this Land Code, if the meaning of that provision is not otherwise clear in English.

Culture and traditions

2.9 The structures, organizations and procedures established by or under this Land Code shall be implemented and interpreted in accordance with the culture, traditions and customs of Long Plain, unless otherwise provided.

Principles

2.10 These principles will be used to assist in the interpretation of this Land Code:

- (a) Long Plain will promote a healthy and prosperous future to ensure the continued existence of Long Plain as a strong political, social and cultural community.
- (b) Long Plain honours its connection to the land, resources and elements of the natural world that provide for its Members' physical and spiritual needs.
- (c) Long Plain recognizes its responsibility to protect land and resources for future Anishinaabe generations.
- (d) Long Plain Members value the need to respect, protect and promote their heritage, culture and traditions and understand the need to continue to develop contemporary expressions of those traditions and practices.
- (e) Persons entitled to possess, reside upon, use or otherwise occupy Long Plain First Nation lands, shall do so harmoniously with due respect to the rights of others and of Long Plain First Nation.

3. Authority to Govern

Origin of authority

- 3.1 The traditional teachings of the Anishinaabe of Long Plain speak of the obligation to care for and respect the land and the magnificent wonders of Nature created on the land. By enacting this Land Code, Long Plain is resuming and renewing this special responsibility.

Flow of authority

- 3.2 The authority of Long Plain to govern its lands and resources flows from the Creator to the Anishinaabe of Long Plain, and from the members, to the Chief and Council according to Long Plain culture, traditions, customs and laws.

4. Purpose

Purpose

- 4.1 The purpose of this Land Code is to set out the base principles, guidelines, processes and administrative structures that will govern future law making and management of Long Plain First Nation lands in accordance with the Framework Agreement.

Ratification

- 4.2 The *Framework Agreement* is ratified and confirmed when this Land Code takes effect.

5. Description of First Nation land

Included Land

- 5.1 The First Nation land that is subject to this Land Code is the Indian Reserve [number(s), as described on CLSR Plan Nos.].

Insert LIST OF included LAND

Excluded lands

- 5.2 Despite section 5.1, the land described as follows is excluded from the application of this Land Code [e.g., and may only be included after it is cleaned up and a full environmental site assessment declares it to be free of environmental hazard and safe for community use]:

Insert List of Excluded Land

Additional lands

- 5.3 Further lands may be made subject to this Land Code if they are or become reserve lands and the following conditions are met as applicable:

- (a) any lands jointly owned by Long Plain and another First Nation, when both First Nations agree upon a joint management system for those lands;[does this deal with Dakota Plains]
- (b) any land or interest acquired by Long Plain after this Land Code comes into effect, whether by land claim, purchase or other process, when an environmental audit declares it free of environmental hazard and safe for community use; or
- (c) any land in severalty selected under any Land Claim Agreement.

- 5.3.1 For greater certainty, this Land Code is not intended to place additional requirements on Long Plain First Nation when processing land acquisitions under any Land Claim Agreement or by other means including complying with the Addition to Reserve Policy, if applicable, therefore, a ~~community approval vote~~ completed:

- (a) as a requirement of any Land Claim Agreement,
- (b) as a requirement of any applicable condition including the requirement to cancel pre-existing third party interests,

shall be deemed to be a ~~Community Approval Meeting~~ as set out in section 12 of this Land Code, to avoid duplication of ~~Community Approval Meetings~~.

5.4 For greater certainty, section 5.3 does not apply to land acquired by land exchange, which is governed by the process in section 17.

5.5 If the relevant conditions in section 5.3 are met, Chief and Council will call a Meeting of Members and after receiving input at that meeting, may by enacting a Law, declare the land or interest to be subject to this Land Code.²

PART 2 LONG PLAIN FIRST NATION LEGISLATION

6. Law-Making Powers

Council may make laws

6.1 The Chief and Council may, in accordance with this Land Code, make Land laws respecting:

- (a) the development, conservation, protection, management, use and possession of First Nation Land;
- (b) interests and licenses in relation to those lands; and
- (c) any matter necessary or ancillary to the making of laws in relation to First Nation land.

Examples of laws

6.2 For greater certainty, the law making power in 6.1 may include but is not limited to the following:

- (a) laws on the regulation, control and prohibition of zoning, land use, subdivision control and land development;
- (b) laws on the creation, regulation and prohibition of interests and licenses in relation to First Nation land;
- (c) laws on environmental assessment and protection;
- (d) laws on the provision of local services in relation to First Nation land and the imposition of equitable user charges;
- (e) enforcement of Long Plain Land Laws, and
- (f) laws on the provision of services for the resolution, outside the courts, of disputes in relation to First Nation land.

7. Law-Making Procedure With Respect to Lands

Considerations: Who should pass the law and what should be the process (level of detail)

Request for Land Laws

7.1 A request for the development of a Land Law may be introduced to Chief and Council by:

- (a) the Chief or a councilor, or;
- (b) the representative of any body or authority composed of members that may be authorized by Council to do so, including the Land Authority.

LPFN Citizen Requests

7.2 If a LPFN Citizen requests a Land Law be developed and introduced to Chief and Council they may do so by approaching any of the individuals listed in section 7.1.

Initial Review

7.4 Chief and Council will review the request at a duly convened meeting and if they agree that a Land Law is required, the issue regarding drafting the Land Law and the level of community input that is required, may or (will) be delegated to the Land Authority. *Assumption that the council may want the land authority's technical assistance in drafting.*

² Wording for 5.3, 5.4 and 5.5 was taken from McLeod Lake First Nation agreement. Does not technically require a community approval.

Draft of Proposed Land Law

7.5 Upon development of a Land Law, the proposed law will be reviewed and recommended by the Land Authority [Assumption that the council may want the land authority's technical assistance in drafting.] before an official notice is given to the community for Community Input.

Community Input

7.6 Before a proposed Land Law is enacted by Chief and Council, the proposed Land Law will be presented to the community for Community Input in one or more of the following means:

- (a) posting of notice along with a brief description of content, in a public place in the administration offices of Long Plain, and request for concerns in writing to be submitted to the Land Authority;
- (b) publishing a notice along with a brief description of the content, in the weekly newspaper regularly distributed on Long Plain lands, for at least two(2) successive editions and request for any concerns to be submitted in writing to the Land Authority;
- (c) making an announcement via media which may include but not be limited to; radio, newspaper, web site and social media, requesting concerns be submitted in writing to the Land Authority; or
- (d) holding a Community Meeting.

Submission of Land Law to Council

7.7 Once Community Input has been completed and the proposed Land Law has been reviewed by the Land Authority, the proposed Land Law will be recommended and forwarded to Chief and Council for their approval.

Review Process of Land Law

7.8 Upon receiving a Land Law recommended for enactment, Chief and Council will; within a reasonable time:

- (a) schedule a first reading of the recommended Land Law with the Land Authority to review the proposed law;
- (b) schedule a second reading of the recommended Land Law within ten days of first reading to consider the community input and legal review input received; and
- (c) schedule a third reading within ten days of second reading that will incorporate any additional changes.

Ceasing or Suspension of Readings

7.9 During the reading processes in section 7.8(a) above, Chief and Council may suspend and/or cease the enactment of a proposed Land Law if:

- (a) more community input or additional information is required or cannot be obtained within a reasonable time frame, or
- (b) significant time is required to gather further information or legal advice,

and the proposed Land Law will start at the beginning of the first to third readings once the information or advice is acquired.

Enactment of Land Law

7.10 A Land Law on the third reading of Council will be deemed enacted if it is approved by a majority of Council at a duly convened meeting that is open to Long Plain members.

Certified Land Law

7.11 Two original copies of an enacted Land Law will be signed by the Council approving the enactment and will be witnessed by the recording secretary for Chief and Council meetings.

Urgent matters

7.12 The Council may enact a law without the preliminary steps required under section 7., if the Council is of the opinion that the law is needed urgently to protect First Nation land or the members, but the law expires 120 days after its enactment, unless re-enacted in accordance with section 7.

Repealing a Land Law

- 7.13 From time to time it may be necessary for the Council to repeal a Land Law in whole or in part for reasons that include but are not limited to:
- (a) the intent of the Land Law is no longer valid;
 - (b) the law has become inadequate or unnecessary due to the passage of time;
 - (c) a recommendation with written explanation by the Land Authority that the Land Law be repealed; or
 - (d) such other reasons as the Chief and Council deems sufficient.

Notice of Repealing a Land Law

- 7.14 Prior to repealing a Land Law the Chief and Council will direct the Land Authority to give notice, using the means in section 7.6, a minimum of thirty (30) days to Long Plain citizens and any other individuals that may be reasonably affected, that a Land Law may be repealed in order to give sufficient time for individuals to express questions or concerns.

Repeal

- 7.15 Upon expiry of the notice period the Council will be informed by the Land Authority of the means of notification, concerns or questions raised; and the Council will make a decision whether to repeal the Land Law.

Certification of Repeal

- 7.16 Upon a majority of Council deciding to repeal the Land Law, the Council will sign a resolution repealing the Land Law which will be witnessed and recorded in the same manner as enactment of a Land Law and the Land Authority will provide public notice of the repeal in the same manner as an enactment of a Land Law.

8. Publication of Laws

Recording and Certification

- 8.1 The enactment, amendment and repeal of all Land Laws will be certified and recorded in the minutes of the Council.

Posting laws

- 8.2 Within 7 days after a law has been enacted, amended or repealed the Council will post a copy of the law in the administrative offices of Long Plain and the Land Authority may post the law using the means in section 7.6 as it deems fit for notification purposes.

Registry of laws

- 8.3 The Council will keep at its Council Chambers a register of the original active Land Laws and Land Laws that have been repealed or are no longer in force.

Duplicate Registry at Land Authority

- 8.4 A duplicate registry of all Long Plain Land Laws, including amendments, repeals, expirations, will be maintained at the Land Authority for management and administration of Long Plain lands under this Land Code.

Copies to Departments

- 8.5 The following departments will be provided copies of Land Laws:
- (a) Administration and Finance,
 - (b) Housing,
 - (c) Lands,
 - (d) Long Plain Trust, and
 - (e) any other department as required.

Accessibility

- 8.6 Any individual may obtain one copy of a law and further copies may be available upon payment of a reasonable fee set by the Council.

9. Commencement of Laws

- 9.1 A law enacted by the council takes effect on the date of its enactment or such later date as specified by the law.

PART 3 COMMUNITY APPROVALS

10. Rights of Eligible Voters

Rights of eligible
Voters

- 10.1 Each member who has attained the age of eighteen (18) years on or before the date of the vote is eligible to vote.

11. Community Input

- 11.1 The Council shall convene a Meeting of Members to receive their input prior to the second reading set out in section 7.8(b) for the following laws:

- (a) a law respecting a community plan or subdivision plan;
- (b) a law declaring land or an interest referred to in section 5.2 or 5.3 to be subject to this Land Code;
- (c) a law affecting a heritage site or an environmentally sensitive property
- (d) a law respecting environmental assessment;
- (e) a law respecting the transfer and assignment of interest in land;
- (f) a law respecting the rate and criteria for the payment of fees or rent for land; and
- (g) any other law or class of law that Council, by resolution, declares to be subject to this section.

Process to Implement Laws

- 11.2 The Land Authority along with the Council will establish a community process to develop and implement the laws referred to in section 11.1.

12. Community Approval at a Meeting of Members

- 12.1 Community approval³ at a meeting of members must be obtained for the following:
- (a) any land use plan;
 - (b) any grant or disposition of an interest or license in any First Nation land exceeding a term of 35 years;⁴
 - (c) any renewal of a grant or disposition of an interest or license in any First Nation land that extends the original term beyond 35 years;⁵
 - (d) any grant or disposition of any natural resources on any First Nation lands exceeding a term of 5 years;
 - (e) a charge or mortgage of a leasehold interest exceeding a term of 25 years;⁶
 - (f) any law on spousal separation that may be enacted under section 37;

³ This term is defined by 13.1 to mean a majority present at the meeting of members called for that purpose. Council may set what the quorum should be see 13.5

⁴ OCN uses 40 years.

⁵ OCN uses 40 years.

⁶ OCN uses 40 years

- (g) any law or class of law that Council, by resolution, declares to be subject to this section.

13. Procedure at a Meeting of Members

Voting

- 13.1 As a general rule if a Meeting of Members requires a vote, the outcome will be determined by a majority of votes cast of the Eligible Voters present at the meeting.

Notice of meeting

- 13.2 The Council shall give written notice of the Meeting of Members that

- (a) specifies the date, time and place of the meeting; and
- (b) contains a brief description of the matters to be discussed and decided on at the meeting.

Manner of notice

- 13.3 Notice of a Meeting of Members will be given to Long Plain Citizens by:

- (a) posting notice in public places on Long Plain land at least twenty (20) days before the meeting;
- (b) mailing the notice to Long Plain Citizens living off Long Plain land who have registered their names to receive information;
- (c) publishing the notice in the community newsletter at least ten (10) working days before the meeting;
- (d) making an announcement via media that may include radio, newspaper, web site and social media; and
- (e) such additional means as the Council may consider appropriate.

Who may attend

- 13.4 All members have a right to attend a Meeting of Members, but other persons may attend with the permission of the Council.

Quorum

- 13.5 The Council may, by a Law or Resolution, establish a minimum number or percentage of Eligible Voters who are required to be present to constitute a quorum for the purposes of making decisions at a Meeting of Members

Subsequent meetings

- 13.6 The Council may schedule a further Meeting of Members if:

- (a) not enough Eligible Voters attend the initial Meeting of Members;
- (b) the Meeting of Members was postponed due to weather or other unforeseen circumstances; or
- (c) additional information was requested by a substantial number of members attending the initial meeting.

14. Ratification Votes

- 14.1 A Ratification Vote is required for the following:

- (a) ~~any development on a heritage site referred to in section 16;~~
- (b) any voluntary exchange of First Nation land;
- (c) any law or class of law that Council, by resolution, declares to be subject to this section.

Ratification process

14.2 Any ratification vote required under this Land Code shall be conducted in substantially the same manner as the *Long Plain First Nation Community Ratification Process*, which was used to ratify this Land Code.

No verifier

14.3 A verifier is not needed in a ratification vote subsequent to enactment of this Land Code.

PART 4 PROTECTION OF LAND

15. Protection of Land

Security of tenure

15.1 Long Plain First Nation respects the rights of all persons who are entitled to use and occupy First Nation land and acknowledges their security of tenure.

Respect for land users

15.2 All individuals entitled to the use and occupation of Long Plain Land have the responsibility to respect the rights of other land users and will not interfere with any other person's lawful use and occupation of land.

Expropriation

15.3 Long Plain First Nation has the general power to expropriate for community development purposes. This power will be regulated by appropriate laws and procedures and will only be exercised after a good faith effort to acquire, by mutual agreement, the interest or license in First Nation land.

Community development purposes

15.4 A community development purpose should be specified in the Land Use Plan, Community Economic Development Plan or similar Community Plan and may include community development purposes such as: a fire hall, sewage or water treatment facility, community center, public works, roads, schools, daycare facility, hospitals, health-care facility, and retirement home.

Power based on law

15.5 The power of Long Plain to expropriate an interest or license in First Nation land, or in any building or other structure on those lands, may only be expropriated by Long Plain in accordance with the *Framework Agreement*, this Land Code and any land law enacted for the purpose of establishing the rights and procedures for community expropriations, including without limiting:

- (a) the taking of possession of the interest or license,
- (b) transfer of the interest or license,
- (c) notice of expropriation and service of the notice of expropriation,
- (d) entitlement to compensation,
- (e) determination of the amount of compensation, and
- (f) the method of payment of compensation.

Public report

15.6 Before Long Plain decides to expropriate an interest or license, it shall make a report public on the reasons justifying the expropriation.

- 15.7 The Land Authority or Chief and Council may recommend a community consultation on the report in the event that; community participation on the Land Use Plan, Community Economic Development Plan or similar Community Plan giving rise to the community development purpose was incomplete or poorly attended.
- 15.8 An interest of Her Majesty the Queen in Right of Canada or the province is not subject to expropriation by Long Plain, but rather, may be a matter for negotiation or land claim.

Compensation

- 15.9 Long Plain shall, in accordance with its laws and the *Framework Agreement*,
- (a) serve reasonable notice of the expropriation on each affected holder of the interest or license to be expropriated; and
 - (b) pay fair and reasonable compensation to the holders of the interest or license being expropriated.

Compensation calculations

- 15.10 The total value of the compensation under this section will be based on the following:
- (a) the market value of the interest or license that is being expropriated;
 - (b) the replacement value of any improvement to the land that is being expropriated;
 - (c) the damages attributable to any disturbance; and
 - (d) damages for any reduction in the value of a remaining interest.

Market value

- 15.11 The “market value” of an expropriated interest or license is equal to the amount that would have been paid for the interest or license if it had been sold on the reserve by a willing seller to a willing buyer under no duress.

Neutral evaluation

- 15.12 A dispute concerning the right of Long Plain to expropriate an interest or license in Long Plain First Nation lands shall be reviewed by neutral evaluation, in the same manner as provided in Part IX of the *Framework Agreement*, and the 60 day period referred to in clause 32.6 of the *Framework Agreement* shall be applied, as appropriate in the circumstance, by the neutral evaluator.

Arbitration to resolve Disputes

- 15.13 The resolution of the following disputes shall be determined by arbitration, in the same manner as provided in Part IX of the *Framework Agreement*:
- (a) disputes concerning the right of a person who claims an interest or license in expropriated First Nation lands to compensation; and
 - (b) disputes concerning the amount of the compensation to be paid to the person who held an interest or license in expropriated First Nation lands.

16. Heritage Sites

- 16.1 LPFN may designate lands as a heritage site if the land represents an important feature of LPFN history, culture or traditions.
- 16.2 LPFN will develop laws, regulations, policies and procedures to protect and manage designated heritage sites.

17. Voluntary Land Exchanges and Protections

Conditions for a land exchange

17.1 Long Plain may agree with another party to exchange a parcel of First Nation land for a parcel of land from that other party in accordance with this Land Code and the *Framework Agreement*.

No effect

17.2 A land exchange is of no effect unless it receives community approval by a ratification vote.

Land to be received

17.3 No land exchange may occur unless the land to be received in the exchange meets the following conditions:

- (a) it must be equal to or greater than the area of the First Nation land to be exchanged
- (b) it must be at least comparable to the appraised value of the First Nation land; and
- (c) it must become a reserve and First Nation land subject to this Land Code.

Negotiators

17.4 The persons who will have authority to negotiate a land exchange agreement on behalf of Long Plain must be designated by resolution.

Additional land

17.5 Long Plain may negotiate to receive other compensation, such as money or one or more other parcels of land, in addition to the parcel referred to above which is intended to become a reserve. Such other parcels of land may be held by the Long Plain in fee simple or some other manner.

Federal Consent

17.6 Before Long Plain concludes a land exchange agreement, it must receive a written statement from Canada clearly stating that Her Majesty in right of Canada

- (a) consents to set apart as a reserve the land to be received in exchange, as of the date of the land exchange or such later date as the Council may specify by resolution or as provided by an agreement with Canada; and
- (b) consents to the manner and form of the exchange as set out in the exchange agreement.

Community notice

17.7 Once negotiations on the land exchange agreement are concluded, the Council shall provide the following information to eligible voters at least 21 days before the vote:

- (a) a description of the First Nation land to be exchanged;
- (b) a description of the land to be received in the exchange;
- (c) a description of any other compensation to be exchanged;
- (d) a report of a certified land appraiser setting out that the conditions in section 17.3 have been met;
- (e) a copy or summary of the exchange agreement; and
- (f) a copy of the consent referred to in section 17.6

Process of land exchange

17.8 The land exchange agreement shall provide that

- (a) the other party to the exchange must transfer to Canada the title to the land which is to be set apart as a reserve;
- (b) the Council must pass a resolution authorizing Canada to transfer title to First Nation land being exchanged, in accordance with the exchange agreement; and
- (c) a copy of the instruments transferring title to the relevant parcels of land must be registered in the First Nations Lands Register.

PART 5 ACCOUNTABILITY

18. Conflict of Interest

18.1 For the purposes of this Land Code, a public official is in a conflict of interest when he or she exercises an official power, duty or function that provides an opportunity to further his or her private interests or those of his or her relatives or friends or to improperly further another person's private interests.

Public Officials

18.2 The following persons are deemed to be public officials who have a duty to arrange their private affairs in a manner that will prevent them from being in a conflict of interest:

- (a) each member of the Council;
- (b) each employee of the Land Authority
- (c) each employee of Long Plain dealing with any matter that is related to First Nation land; and
- (d) each person who is a member of a board, committee or other body of Long Plain dealing with any matter that is related to First Nation land;

when he or she exercises an official land management power, duty or function:

Prohibited conduct

18.3 No public official acting in their official capacity will:

- (a) participate in making a decision if he or she knows or reasonably should know that, in the making of the decision, he or she would be in a conflict of interest;
- (b) use information obtained from their position that is not available to the public to further their own interests or those of their friends or relatives or to improperly further another person's private interests;
- (c) seek to influence a decision of another person so as to further the public official's private interests or those of their friends or relatives or to improperly further another person's private interests.

Interest in Common Excluded

18.4 A public official is not in a conflict of interest merely because he or she has an interest that is held in common with every other Long Plain First Nation member.

Steps to Resolve

18.5 In the event that a conflict of interest arises:

- (a) the person in a conflict will cease further participation and will immediately disclose all information relating to the conflict to their supervising manager, chairperson, Council member or Appeal Panel as the case may be,

- (b) the supervising manager, chairperson, Council or Appeal Panel will postpone further deliberation until the conflict of interest is resolved, and
- (c) the conflict shall be resolved within a reasonable time in order to deal with the original matter in a timely manner.

Inability of Council to Act

18.6 If the Council is unable to act due to a conflict of interest, the matter shall be referred to the Land Authority:

- (a) to determine if the Land Authority can act in their stead;
- (b) to obtain professional advice on the conflict; or,
- (c) to take any steps necessary to protect the interests of LPFN, members and third parties who may be affected by the inability of the council to act.

Inability of Body to Act

18.7 If the board, committee or other body is unable to act due to a conflict of interest, the matter shall be referred to the Council:

- (a) to determine if the Council can delegate the power, duty or function to another body;
- (b) to obtain professional advice on the conflict; or,
- (c) to take any steps necessary to protect the interests of LPFN, members and third parties who may be affected by the inability of the council to act.

Disputes

18.8 Questions about whether a breach of this section has occurred may be referred to the Appeal Panel providing best efforts have been used to complete the requirements of section 18.5.

Other laws

18.9 Long Plain First Nation may enact further laws, regulations or policies to better protect the community and third parties from conflicts of interest.

19. Financial Management⁷

Application

19.1 This section applies only to financial matters relating to First Nation land.

Establishment of Bank accounts

19.2 The Council shall maintain one or more financial accounts in a financial institution and shall deposit in those accounts

- (a) transfer payments received from Canada for the management and administration of First Nation land;
- (b) moneys received by Long Plain from the grant or disposition of any interests or licenses in First Nation land;
- (c) all fees, fines, charges and levies collected under a land law or land resolution;
- (d) all capital and revenue moneys received from Canada from the grant or disposition of any interests and licenses in First Nation land; and
- (e) any other land revenue received by Long Plain.

⁷ LPFN Finance to provide feedback.

Signing officers

19.3 The Council shall authorize at least three persons, one of whom shall be a member of the Council, to sign cheques and other bills of exchange or transfer drawn on the account. Council of Long Plain has authority to sign cheques and other bills of exchange or transfer.

Two signatures

19.4 To be valid, a cheque or other bill of exchange or transfer drawn on the account must be signed by two Council.

Fiscal year

19.5 The fiscal year of Long Plain begins on April 1 of each year and ends on March 31 of the following year.

Adoption of budget

19.6 The Council shall, by resolution, prior to the beginning of each fiscal year, adopt a land management budget for that fiscal year and may, if the Council deems it necessary in the course of the fiscal year, adopt supplementary budgets for that fiscal year.

Procedure

19.7 After adopting the land management budget or supplementary budget, the Council shall, without undue delay:

- (a) explain the budget or supplementary budget to the members at an annual community meeting; and
- (b) make a copy of the budget or supplementary budget available at the administrative office of Long Plain for inspection by members at reasonable hours.

If no budget

19.8 If the Council fails to adopt a land management budget for a fiscal year prior to the beginning of that fiscal year, the budget and any supplementary budgets of the previous fiscal year apply until a new budget is adopted.

Budget rules

19.9 The Council may make rules respecting the preparation and implementation of land management budgets.

Expenditures

19.10 The Council may not expend moneys related to land or commit itself, by contract or otherwise, to expend moneys related to land, unless the expenditure is authorized by or under a law or an approved budget.

Financial Policy

19.11 Long Plain (through the Council or Land Authority) may, in accordance with this Land Code, adopt a financial policy to further manage moneys related to First Nation land.

20. Financial Records

Financial records

20.1 Long Plain shall keep financial records related to land in accordance with generally accepted accounting principles.

Offences

20.2 A person is guilty of an offence if the person

- (a) impedes or obstructs anyone from exercising their right to inspect the financial records of Long Plain; or

- (b) has control of the books or account or financial records of Long Plain and fails to give all reasonable assistance to anyone exercising their right to inspect the financial records.

Preparation of
financial statement

- 20.3 Within 90 days after the end of each fiscal year, the Council on behalf of Long Plain shall prepare a financial statement in comparative form, containing at a minimum
- (a) a balance sheet;
 - (b) a statement of revenues and expenditures and a comparison of these with the amounts stated in the land management budget and any supplementary budget; and
 - (c) any other information necessary for a fair presentation of the financial position of Long Plain.

Consolidated
Accounts, etc.

- 20.4 The accounting, auditing and reporting requirements of this Land Code may be done together with, and consolidated with, the other accounts, audits and reports of Long Plain.

21. Audit

Appointment of
Auditor

- 21.1 For each fiscal year, a duly accredited auditor shall be appointed to audit the land related financial records of Long Plain.

Holding Office

- 21.2 The auditor appointed under this section holds office until reappointed, or replaced.

Vacancy in office

- 21.3 Where a vacancy occurs during the term of an auditor, the Council shall, without delay, appoint a new auditor for the remainder of the former auditor's term.

Remuneration

- 21.4 The auditor's remuneration shall be fixed by the Council.

Duty of auditor

- 21.5 The auditor shall, within 120 days after the end of Long Plain's fiscal year, prepare and submit to the Council, a report on Long Plain's financial statement, stating whether, in the opinion of the auditor, the financial statement presents fairly the financial position of Long Plain in accordance with generally accepted accounting principles applied on a basis consistent with that applied in the previous fiscal year.

Access to records

- 21.6 In order to prepare the report on Long Plain's financial statement, the auditor may at all reasonable times inspect any financial records of Long Plain and any person or body who administers money on behalf of Long Plain.

Explanation of
Auditor's report

- 21.7 The Council shall present the auditor's report to the members at a meeting of members.

22. Annual Report

Publish annual report

- 22.1 The Council, on behalf of Long Plain, shall publish an annual report on lands issues within one month of receipt of the audit report.

Contents

- 22.2 The annual report will include
- (a) an annual review of land management;
 - (b) a copy and explanation of the audit as it applies to lands; and
 - (c) any other matter as determined by the Council or Land Authority.

23. Access to Information

Access

- 23.1 Any person may, during normal business hours at the main administrative office of Long Plain, have reasonable access to
- (a) the register of laws;
 - (b) the auditor's report; and
 - (c) the annual report on lands.

Copies for members

- 23.2 Any member may obtain a copy of the auditor's report or annual report on payment of a reasonable fee set by or under resolution of the Council.

Access to records

- 23.3 Any person authorized by the Council may, at any reasonable time, inspect the financial records Long Plain related to First Nation land.

**PART 6
LAND ADMINISTRATION**

24. Land Authority

- 24.1 The Land Authority is hereby established to
- (a) assist with the development of the land administration system;
 - (b) advise the Council and its staff on matters respecting First Nation land;
 - (c) recommend laws, resolutions, policies and practices respecting First Nation land to the Council;
 - (d) hold regular and special meetings of members to discuss land issues and make recommendations to Council on the resolution of these land issues;
 - (e) assist in the communication of land issues between members and the Council; and
 - (f) oversee community approvals under this Land Code.
- 24.2 Within a reasonable time after this Land Code takes effect, the Land Authority shall, in consultation with the community, ensure that laws, rules and procedures, as may be appropriate, are developed that address the following matters:
- (a) environmental protection and assessment in relation to First Nation land;
 - (b) any outstanding issues on the resolution of disputes in relation to First Nation land;
 - (c) land use planning and zoning;
 - (d) section 37 respecting spousal separation and whether any change should be made to the policy upon which that section is based; and,

- (e) any other matter referred by Council.

Implementation of
Policies

24.3 The rules and procedures, once developed, shall be presented to the Council for consideration and implementation as policies, laws or amendments to this Land Code, whichever is most appropriate.

Internal procedures

24.4 The Land Authority may establish rules for the procedure at its meetings and generally for the conduct of its affairs, not inconsistent with those established by the Council.

25. Composition of the Land Authority

Initial Composition

25.1 The Land Authority shall be composed of the Land Director, Land Manager and councilor with portfolio.

25.2 When it becomes advisable to do so, Long Plain may establish a Land Authority Board to govern the Long Plain First Nation Land Authority.

Eligibility

25.3 Any eligible voter, whether resident on or off First Nation land, is eligible to become a Land Authority board member, except for the following persons:

- (a) any person convicted of an offence that was prosecuted by way of indictment;
- (b) any person declared a bankrupt; and
- (c) any person convicted of a corrupt practice in connection with an election, including accepting a bribe, dishonesty or wrongful conduct.

Selection of Lands
Committee members

25.4 The Council will determine the manner in which Land Authority Board Members are appointed, selected or elected, as the case may be, by enacting a law, regulation, policy or resolution to give effect to the selected process.

Term of office

25.5 The length of the term of office for members of the Land Authority shall be determined by Council however there will be an appropriate mechanism for secure tenure and for removal.

Vacancy on Lands
Committee

25.5 The office of a member of the Land Authority becomes vacant if the person, while holding office,

- (a) resigns;
- (b) is or becomes ineligible to hold office under section 25.2;
- (c) transfers his or her of membership to another First Nation; or
- (d) is absent for 3 consecutive meetings of the Land Authority for a reason other than illness or incapacity, and without being authorized to do so by the Land Authority.

Vacancy in term

- 25.6 Where the office of an appointed member of the Land Authority becomes vacant for more than 90 days before the date when another appointment would ordinarily be held, Council shall make a special selection made in accordance with this Land Code, to fill the vacancy.

Balance of term of
Office

- 25.7 A member of the Land Authority appointed to fill a vacancy remains in office for the balance of the term in respect of which the vacancy occurred.

26. Chairperson of the Land Authority

Chairperson

- 26.1 The Land Director or Land Manager, as the case may be, will act as the chairperson until such time as a governing board becomes necessary and is established. Upon being established, the governing board of the Land Authority shall appoint from their members a person to be the Chairperson of the Land Authority.

Alternate Chairperson

- 26.2 If the Chairperson is unable to perform the functions of office, either temporarily or on a long-term basis, the Land Authority shall appoint one of the other Land Authority members to act as or be the Chairperson.

Functions of
Chairperson

- 26.3 The functions of the Chairperson include:
- (a) ensuring the preparation of financial statements relating to all activities of the Land Authority, including the revenues and expenditures concerning First Nation lands;
 - (b) tabling the Land Authority's financial statements with the Council;
 - (c) reporting to Long Plain on the activities of the Land Authority; and
 - (d) ensuring that the audited annual financial statements are published under section 21.

27. Revenue From Lands

Determination of
Fees, and rent

- 27.1 The Land Authority shall, subject to the approval of the Council, establish the process and recommend any laws, rules and policies for determining
- (a) the fees and rent for interests and licenses in community land;
 - (b) the fees for services provided in relation to any First Nation land; and,
 - (c) the fees and royalties to be paid for the taking of natural resources from First Nation land.

28. Registration of Interests and Licenses

Enforcement of
Interest and licenses

- 28.1 An interest or license in First Nation land created or granted after this Land Code takes effect is not enforceable unless it is registered in the First Nations Land Register.

Registration of
Consent or approval

- 28.2 An instrument granting an interest or license in First Nation land that requires the consent of the Council, or community approval, shall include a certificate issued by the Land Director, Land Manager or designated officer indicating that the applicable consent or approval has been obtained.
- 28.3 An instrument registered in the First Nation Land Register which does not include the certificate referred to in clause 28.2 is void.

Duty to deposit

- 28.4 An original copy of the following instruments shall be deposited in the First Nations Land Register:
- (a) any grant of an interest or license in First Nation land;
 - (b) any transfer or assignment of an interest or license in First Nation land;
 - (c) every land use plan, subdivision plan or resource use plan; and
 - (d) this Land Code and any amendment to this Land Code.

29. Duplicate Lands Register

Maintain
duplicate register

- 29.1 The Council may maintain a Duplicate Land Register in the same form and with the same content as the First Nations Land Register.

Duty of member to
deposit.

- 29.2 Every person who receives an interest or license in First Nation land from a member shall deposit an original copy of the relevant instrument with Long Plain.

PART 7 INTERESTS AND LICENSES IN LAND

30. Limits on Interests and Licenses

All dispositions in
writing.

- 30.1 An interest in, or license to use First Nation land may only be created, granted, disposed of, assigned or transferred by a written document made in accordance with this Land Code.

Standards

- 30.2 The Council may establish mandatory standards, criteria and forms for interests and licenses First Nation land.

Improper
Transactions void

- 30.3 A deed, lease, contract, instrument, document or agreement of any kind, whether written or oral, by which Long Plain, a member or any other person purports to grant, dispose of, transfer or assign an interest or license in First Nation land after the date this Land Code takes effect is void if it contravenes this Land Code.

Non-members

- 30.4 A person who is not a member may only hold a lease or license in First Nation land.

Grants to non-members

30.5 The written consent of the Council must be obtained for any grant or disposition of a lease or license in First Nation land to a person who is not a member.

31. Existing Interests or Licenses

Existing Interests Continue

31.1 Any interest or license First Nation land that existed when this Land Code takes effect will, subject to this Land Code, continue in force in accordance with its terms and conditions.

Member Interests Continue

31.1 Member interests in First Nation land that existed when this Land Code takes effect, and which were allocated pursuant to the *Indian Act* or custom of the First Nation, shall continue in existence in accordance with their terms

32. New Interests and Licenses

Authority to make dispositions

32.1 Subject to section 12.1, the Council may, on behalf of Long Plain, grant;

- (a) interests and licenses in community lands, including, leases, permits, easements and rights-of-ways; and
- (b) licenses to take resources from community lands, including cutting timber or removing minerals, stone, sand, gravel, clay, soil or other substances.

Conditional grant

32.2 The grant of an interest or license may be made subject to the satisfaction of written conditions.

Role of the Lands Committee

32.3 The Land Authority shall advise Council on the granting of interests or licenses and may be authorized to act as a delegate of the Council under this section.

33. Allocation of Land

Allocation of lots

33.1 The Council may allocate a lot from available First Nation land to a member in accordance with laws, regulations, policies or procedures established by the Council, Housing Authority or Land Authority.

33.1 ~~No community approval is required for the allocation of lots to members.~~⁸

No allocation of lots to non-members

33.2 A person who is not a member is not entitled to be allocated a lot or to hold a permanent interest in First Nation land.

34. Transfer and Assignment of Interests

Transfer of Interests

34.1 A member may transfer or assign an interest in First Nation land to another member with the consent of the Council.

Consent of Council

⁸ The Land Advisory Board will discuss this further in relation to a land use plan.

- 34.2 Except for the transfers under section 34.1 and transfers that occur by valid will or operation of law,
- (a) there shall be no transfer or assignment of an interest in First Nation land without the written consent of the Council; and
 - (b) the grant of an interest or license is deemed to include section 34.2 (a) as a condition on any subsequent transfers or assignments.

35. Limits on Mortgages and Seizures

Protections

35.1 Subject to this Land Code, section 29, section 87 and subsections 89(1) and (2) of the *Indian Act* continue to apply to First Nation land.

Mortgages of leasehold interests with consent

35.2 A leasehold interest may be subject to charge or mortgage, with the approval of Long Plain, in accordance with section 12.1 of this Land Code, or the written consent of the Council, as may be applicable.

Time limit

35.3 The term of any charge or mortgage of a leasehold interest shall not exceed:

- (a) the term of the lease; or
- (b) 25 years, or such longer period as may receive community approval.

Default in mortgage

35.4 In the event of default in the terms of a charge or mortgage of a leasehold interest, the leasehold interest is not subject to possession by the chargee or mortgagee, by way of foreclosure, power of sale or any other form of execution or seizure, unless

- (a) the charge or mortgage received the written consent of the Council;
- (b) the charge or mortgage received community approval where required;
- (c) the charge or mortgage was registered in the First Nations Land Register; and
- (d) a reasonable opportunity to redeem the charge or mortgage is given to the Council on behalf of Long Plain.

Power of redemption

35.5 If the Council exercises its power of redemption with respect to a leasehold interest, Long Plain becomes the lessee of the land and takes the position of the chargor or mortgagor for all purposes after the date of the redemption.

36. Residency and Access Rights

Right of residence

36.1 The following persons have a right to reside on First Nation lands;

- (a) a member, and their spouse and children who have been allocated a residential lot by Council;;
- (b) members with a registered interest in First Nation land;
- (c) any invitee of a member referred to in clause (a) or (b); and

- (d) lessees and permittees, in accordance with the provisions of the granting instrument.

Right of Access

36.2 The following persons have a right of access to First Nation lands;

- (a) a lessee and his or her invitees;
- (b) a person granted a right of access under a permit;
- (c) a Long Plain member and their spouse and children;
- (d) A person who is authorized by a government body or any other public body, established by or under an enactment of Long Plain, Parliament or the province to establish, operate or administer a public service, to construct or operate a public institution or to conduct a technical survey; or
- (e) A person authorized in writing by the Council/Land Authority or by a Long Plain law.

Denial of Access⁹

36.4 ~~Subject to section 36.5, the Council may, for valid and fair reasons, deny or restrict the right to reside on or to access Long Plain Land to any person if, at a duly convened meeting a quorum of the Council vote in favor of a Resolution denying or restricting such right of the person and the Resolution clearly provides the background and justification for the decision.~~ [need further discussion]

36.5 ~~The Council may not deny or restrict the right to reside on or to access Long Plain Land to a Member unless such denial or restriction receives community approval in accordance with section 42.1 (g).~~ [need further discussion]

Public access

36.6 Any individual may have access to First Nation land for any social or business purposes, if

- (a) the individual does not trespass on occupied land and does not interfere with any interest in land;
- (b) the individual complies with all applicable laws; and
- (c) no resolution has been enacted barring that individual.

Trespass

36.7 Any person, who resides on, enters or remains on First Nation land other than in accordance with a residence or access right under this Land Code is guilty of an offence.

Civil remedies

36.8 All civil remedies for trespass are preserved.

37. Spousal Property Law

Development of rules and procedures

⁹ The First Nation's right to protect their boundary and nationhood (international and treaty right) must be properly balanced with the individual right of individuals to their nationality (international right) and right to shelter (stated in Long Plain Constitution).

37.1 The Council shall enact a spousal property law providing rules and procedures applicable on the breakdown of a marriage, to

- (a) the use, occupancy and possession of First Nation land; and
- (b) the division of interests in that land.

Enactment of rules
and procedures

37.2 The rules and procedures contained in the spousal property law may be developed by the Land Authority, for recommendation to council.

Enactment deadline

37.3 The spousal property law must be consistent with maintaining the integrity and quantity of Long Plain First Nation land and with the right of indigenous people to a homeland and nationality and should be enacted within 12 months from the date this Land Code takes effect.

General principles

37.4 For greater certainty, the rules and procedures developed by the Land Authority under this section must respect the following general principles;

- (a) each spouse should have an equal right to possession of their matrimonial home;
- (b) each spouse should be entitled to an undivided half interest in their matrimonial home, as a tenant in common;
- (c) the rules and procedures shall not discriminate on the basis of sex; and
- (d) only members are entitled to hold a permanent interest in First Nation Land or a charge against a permanent interest in First Nation land.

Immediate rules

37.5 In order that members benefit immediately from the legislative authority of the Council to address the issue of spousal property under this Land Code, the Council may enact a spousal property law as soon as this Land Code comes into force. As this law would be enacted before the work of the Land Authority and the community consultation is complete, the law will expire at the end of the 12-month period after the coming into force of this Land Code, unless re-enacted, replaced or amended.

PART 8 DISPUTE RESOLUTION

38. Purpose

Access to Dispute Resolution

38.1 All persons entitled to possess, reside upon, use or otherwise occupy Long Plain First Nation lands, shall do so harmoniously with due respect to the rights of others and of Long Plain First Nation and will have access to dispute resolution procedures in this Part to resolve disputes that may arise in relation to LPFN land.

Informal Discussions

38.2 Long Plain First Nation intends that whenever possible, a dispute in relation to LPFN land, will be resolved through informal discussion by the parties to the dispute and nothing in this Part will be construed to limit the ability of parties to a dispute to reach an agreement to settle a dispute without recourse to this Part.

Staged Process

38.3 Long Plain First Nation intends that a dispute that is not resolved by informal discussion and settlement by the parties, will, except as otherwise provided herein, progress in sequence through the following stages:

- (a) facilitated discussions,
- (b) an appeal; or
- (c) as a final option a court of competent jurisdiction.

Duty of Fairness

38.4 Principles of natural justice apply so as that all persons involved in a dispute under this Part must be:

- (a) treated fairly,
- (b) given a full opportunity to present their case; and
- (c) given reasons for a decision made under this Part.

Civil Remedies Preserved

38.5 Nothing in this Part shall be construed to prevent a party to a dispute from, at any stage of dispute resolution, applying to a court of competent jurisdiction to have the dispute resolved.

Challenge to validity of Law

38.6 Nothing in this Part shall be construed to prevent a party to a dispute from challenging the validity of a Land Law, but such challenge may be heard only in a court of competent jurisdiction.

39. Appeal Panelists

Panel Roster

39.1 The Land Authority will develop and maintain a roster of appeal panelists from among Eligible Voters, who have relevant knowledge and experience to serve on the Appeal Panel for facilitated discussions and appeals.

Panel Appointment

39.2 When an Appeal Panel is required, the Chief and Council will appoint an appropriate number of panelists from the roster maintained by the Land Authority.

Unbiased, No Conflict of Interest

39.3 Persons appointed shall be unbiased and free of any conflict of interest regarding the parties or matters in dispute.

Expert Assistance

39.4 The Chief and Council may appoint or contract with expert advisors, mediators, professionals or other persons to assist and advise panelists in resolving disputes, if the Appeal Panel requests assistance.

40. Procedure to File an Appeal

Procedure to File

40.1 A person who wishes to resolve a dispute with another person or LPFN in relation to the use or occupation of LPFN Land may file a written notice of appeal with the Land Authority setting out:

- (a) the nature of the dispute or appeal;
- (b) the facts and supporting arguments upon which the person filing the written notice of appeal relies; and
- (c) the relief that is sought.

Limitation Period

40.2 A person wishing to file a written notice of appeal must do so within thirty (30) days of becoming aware of the decision, act or omission being disputed.

Who May File an Appeal

40.3 The following persons may file a written notice of appeal under this Part:

- (a) a person who has a dispute with another person or with LPFN in relation to the use or occupation of LPFN land,
- (b) LPFN when disputing the use or occupation of LPFN land by a person, and
- (c) LPFN when asserting an interest in LPFN land

Appeal Panel Not Available

40.4 Dispute resolution under this part is not available for the following matters:

- (a) administration or distribution of an estate,
- (b) decisions relating to housing allocations; and
- (c) decisions of Chief and Council to grant or refuse to grant an Interest or License in LPFN land.

41. Facilitated Discussion Stage

Report on Dispute

41.1 Within fifteen (15) working days of receiving a written notice of appeal under section 40.1 the Land Authority will prepare and deliver a report to the Chief and Council stating the nature of the dispute and clearly identifying any actions or omissions, if any, of the Land Authority.

Appointment of Panelists

41.2 Within five (5) working days of receiving the report from the Land Authority the Chief and Council will convene a meeting and will appoint an appropriate number of panelists from the roster to serve in the facilitated discussion and appeal stages.

Initial meeting

41.3 Within five (5) working days of the appointment the appointees will meet as facilitators:

- (a) to schedule the facilitation and give notice to the parties of the need for any further information,
- (b) to determine if advice or assistance may be required, and
- (c) to address any matters required for a proper facilitation.

Facilitation

41.4 The facilitators will facilitate discussions for a reasonable period of time given the nature and complexity of the dispute, in order to reach an agreement between the parties and will provide their recommended resolution of the dispute in writing for the parties to consider as a settlement of the dispute at the conclusion of facilitated discussions.

41.5 Should the parties not reach agreement within a reasonable time after conclusion of facilitated discussions, the dispute will proceed to the appeal stage.

42. Appeal Stage

Powers of Appeal Panel

42.1 The Appeal Panel may, after hearing a dispute:

- (a) confirm or reverse the decision, in whole or in part,
- (b) substitute its own decision for the decision in dispute,
- (c) direct that an action be taken or ceased; or
- (d) refer the matter or dispute back for a new decision.

Rules of Panel

42.2 The Panel may establish rules for the procedure at its hearings and generally for the conduct of its affairs.

Expert Assistance

42.3 The Panel may obtain the service of professionals to assist it in fulfilling its functions, in which case it shall make best efforts to use professional services available in the community.

Written decisions

42.4 Decisions of the Panel must be in writing, signed by the person chairing the Appeal Panel or by an officer designated by the panel to do so.

Decision binding

42.5 A decision of the Appeal Panel is binding and shall be final except for review by a court of competent jurisdiction.

Land Authority Recommendations

42.6 The Land Authority may make recommendations for Council's approval to prescribe rules, policies, procedures, forms and reasonable fees not inconsistent with the Land Code as maybe necessary from time to time to give effect to this Part, including but not limited to:

- (a) remuneration of facilitators, expert advisors, professionals or other persons retained to assist in the resolution of disputes under this Part,
- (b) implementing recommendations of the Appeal Panel; and
- (c) any other matter necessary to give effect to this Part.

Parties will bear their own costs.

42.7 The parties will bear their own costs of participating in the dispute resolution process.

PART 10 OTHER MATTERS

42. Liability

Liability Coverage

42.1 The Council shall arrange, maintain and pay insurance coverage for its officers and employees engaged in carrying out any matter related to First Nation land to indemnify them against personal liability arising from the performance of those duties.

Extent of coverage

42.2 The extent of the insurance coverage shall be determined by the Council.

43. Offences

Application of the Criminal Code

43.1 Unless some other procedure is provided for by a law, the summary conviction procedures of Part XXVII of the Criminal Code, as amended from time to time, apply to offences under this Land Code or under a Long Plain law.

43.2 Any person who commits an offence under this Land Code or a Long Plain law is liable to a fine not to exceed \$5,000 and to a term of imprisonment not to exceed six months or to both fine and imprisonment, provided however, that offences related to Long Plain environmental protection laws may carry penalties consistent with similar environmental protection laws in force in Canada.

43.3 A Long Plain law may provide for a penalty which is different than the penalties referred to in clause 43.2.

44. Amendments to Land Code

Community Approval

44.1 Subject to section 44.2, amendments made to this Land Code require Community Approval at a Meeting of Members to be effective.

No Vote Needed

44.2 A Ratification Vote is not required for amendments made to this Land Code that do not change the substance of this Land Code. The Council shall, from time to time, review and amend this Land Code. Amendments may be made as a result of, but are not limited to:

- (a) a reference in this Land Code to a clause in another act or document that was amended and resulted in clause renumbering;
- (b) a reference in this Land Code to an Act or parts thereof that have expired, have been repealed or suspended;
- (c) minor improvements in the language as may be required to bring out more clearly the intention of Long Plain without changing the substance of this Land Code;
- (d) changes in this Land Code as are required to reconcile seeming inconsistencies with other acts; and
- (e) correct editing, grammatical or typographical errors.

45 Commencement

Preconditions

45.1 This Land Code shall take effect if the community approves this Land Code and the Transfer Agreement with Canada and this Land Code has been certified by the verifier pursuant to the *Framework Agreement*.

Commencement date

45.2 This Land Code shall take effect on the first day of the month following the certification of this Land Code by the verifier.