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## Transfer of Development Credits

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This document contains the clauses from the Alberta Land Stewardship Act which pertain to Transfer of Development Credits. There are two versions:

- Verbatim (the exact text and section numbering from ALSA)
- Simplified (the legal clauses converted into plain language)

*These summaries are provided for informational purposes only and without warranty for their accuracy. Legal advice should be sought rather than relying on these solely.*



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## Transfer of Development Credits -- ALSA Verbatim

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### Establishing a TDC scheme

- 48(1)** A TDC scheme may be established only in accordance with this Division.
- (2)** A TDC scheme may be established by
- (a) a regional plan,
  - (b) a local authority if the scheme is first approved by the Lieutenant Governor in Council, or
  - (c) 2 or more local authorities in accordance with an agreement or arrangement among them, with or without other persons, if the agreement or arrangement is first approved by the Lieutenant Governor in Council.

### Components of a TDC scheme

- 49(1)** Unless regulations under section 50 provide otherwise, every TDC scheme must include the following components:
- (a) the designation of an area or areas of land as a conservation area with one or more of the following purposes:
    - (i) the protection, conservation and enhancement of the environment;
    - (ii) the protection, conservation and enhancement of natural scenic or esthetic values;
    - (iii) the protection, conservation and enhancement of agricultural land or land for agricultural purposes;
    - (iv) providing for all or any of the following uses of the land that are consistent with the purposes set out in subclause (i), (ii) or (iii):
      - (A) recreational use;
      - (B) open space use;
      - (C) environmental education use;
      - (D) use for research and scientific studies of natural ecosystems;
    - (v) designation as a Provincial Historic Resource or a Municipal Historic Resource under the *Historical Resources Act*;
  - (b) identification or provision for the identification of every parcel of land in the conservation area and the title holder of each parcel of land or a means of identifying them;
  - (c) the attributes of the one or more stewardship units established by the TDC scheme in accordance with regulations made under section 46;
  - (d) the terms and conditions under which a stewardship unit may be realized or used, or both, by a title holder in the conservation area;
  - (e) the designation of an area or areas of land as a development area and any terms and conditions of that designation;



- (f) any other matter required to be included in a TDC scheme by the regulations under section 50.
- (2)** If a local authority or 2 or more local authorities establish a TDC scheme, the scheme must include
  - (a) in the case of a TDC scheme established by a single local authority, provisions to adopt or amend a municipal development plan, area structure plan, land use bylaw, intermunicipal development plan or other bylaw to implement the TDC scheme;
  - (b) in the case of a TDC scheme between 2 or more local authorities,
    - (i) a written arrangement or agreement between the local authorities with respect to the scheme, with or without other persons, and
    - (ii) provisions to adopt or amend municipal development plans, area structure plans, land use bylaws, intermunicipal development plans or other bylaws to implement the scheme;
  - (c) any other provision considered necessary or desirable by the Lieutenant Governor in Council or required by the regulations made under section 50.

### **TDC regulations**

- 50(1)** The Lieutenant Governor in Council may make regulations
  - (a) respecting any additional components of or modification to the components of a TDC scheme required by section 49;
  - (b) respecting what a stewardship unit may or may not be used for in a TDC scheme and the terms and conditions on the use of stewardship units;
  - (c) managing the realization, sale, assignment or disposition of stewardship units and the conditions under which a realization, sale, assignment or disposition of a stewardship unit may occur, including, without limitation, if the title holder
    - (i) enters into a conservation easement satisfactory to the Stewardship Minister or the local authority or local authorities, as the case requires, and the conservation easement is registered in a land titles office,
    - (ii) consents to a Provincial Historic Resource or a Municipal Historic Resource designation under the *Historical Resources Act* with respect to a parcel of land or an aspect of it, or
    - (iii) provides a form of conservation or protection with respect to a parcel of land that is designated as part of a conservation area that, in the opinion of the Stewardship Minister or the local authority or local authorities, as the case may be, provides a satisfactory means of conservation;
  - (d) respecting the functions and responsibilities of the exchange in a TDC scheme;
  - (e) respecting the amendment or repeal of a bylaw designating a conservation area or development area, or both, and the conditions that must be met



before a bylaw designating a conservation area or development area is amended or repealed.

- (2)** Nothing in regulations made under subsection (1) limits or restricts the regulation-making authority of the Lieutenant Governor in Council under section 46.



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## **Transfer of Development Credits -- ALSA Simplified**

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### Background

1. ALSA is the legal foundation for the Land-use Framework and the Regional Plans
2. Proclaimed October 2009
3. Part 3: Conservation and Stewardship Tools deals with TDCs

### Who can establish a TDC Program:

1. A regional plan
2. A local authority (with provincial approval)
3. Two (2) or more local authorities (with provincial approval)

### Components TDC Program Must Include:

*(subject to changes in the yet-to-be released regulations)*

1. Designation of 'conservation' lands, with one/more of the following purposes:
  - environment
  - scenic values
  - agriculture (\*\*NEW\*\*)
  - historic resource
2. Identification of those parcels
3. Attributes of the TDC 'stewardship units'
4. Terms of stewardship unit 'realization' or 'use'
5. Designation of 'development' area
6. Other ... (regs)

### Requirements for Municipalities re: TDCs

1. TDC provisions in MDP, ASP, LUB, IDP, other bylaw
2. For two municipalities:
  - Written agreement wrt TDC program
  - TDC provisions in MDP, ASP, LUB, IDP, other bylaw
3. Other ... (regs)

### Stewardship Units

There is virtually nothing in the legislation about Stewardship Units, except to say that they can be created by regulations.

1. How created and by whom



2. Types and classes (including TDC credits)
3. Attributes of those 'Units'
4. Managing the "holding, use, sale, trading, exchange, lease, assignment and disposition" of Stewardship Units
5. Establishment of a registry
6. Delegating to a "Designated Minister, a **local government body** or a decision-maker any authority, function or requirement" with respect to "the use, imposition or extinguishment of a stewardship unit"
7. Stewardship Unit is NOT an interest in land.

### The Exchange

Subject to the yet-to-be-created regulations

1. Province may establish an 'Exchange'
2. Authority to "create, hold, issue, approve, verify, authenticate, distribute, modify, suspend or extinguish all or part of a stewardship unit"
3. Authority to establish/administer programs
4. Authority to register stewardship units, require reporting

### Next Steps

1. Act has been proclaimed but Regulations yet to come
2. Much of the 'meat' of ALSA in the Regs
3. Conservation and Stewardship Strategy being developed by Land Use Secretariat (LUS) and IAFE; includes TDCs
4. "Conservation and Stewardship Strategy Green Paper" currently being developed, which will test the CSS concepts and directions
5. Consultation on the CSS Green Paper early 2010; finalize strategy mid-2010