
Conservation Easements

This document contains the clauses from the Alberta Land Stewardship Act which pertain to Conservation Easements. 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.

Definitions

28 In this Division,

- (a) "grantee" means the recipient of a conservation easement and includes a successor, assignee, executor, administrator, receiver, receiver manager, liquidator and trustee of the grantee;
- (b) "grantor" means the person who grants a conservation easement and includes a successor, assignee, executor, administrator, receiver, receiver manager, liquidator and trustee of the grantor;
- (c) "qualified organization" means
 - (i) the Government,
 - (ii) a Government agency,
 - (iii) a local government body, or
 - (iv) a corporation that
 - (A) has as one of its objects the acquisition and holding of interests in land for purposes that are substantially the same as any of the purposes for which a conservation easement may be granted,
 - (B) has in its constating instrument a requirement that, on or in contemplation of the winding-up of the corporation, all conservation easements that the corporation holds are to be transferred to another qualified organization, and
 - (C) is a registered charity within the meaning of the Income Tax Act (Canada).

Purpose of conservation easements

29(1) A registered owner of land may, by agreement, grant to a qualified organization a conservation easement in respect of all or part of the land for one or more of the following purposes:

- (a) the protection, conservation and enhancement of the environment;

- (b) the protection, conservation and enhancement of natural scenic or esthetic values;
- (c) the protection, conservation and enhancement of agricultural land or land for agricultural purposes;
- (d) providing for any or all of the following uses of the land that are consistent with the purposes set out in clause (a), (b) or (c):
 - (i) recreational use;
 - (ii) open space use;
 - (iii) environmental education use;
 - (iv) use for research and scientific studies of natural ecosystems.

(2) In subsection (1), “registered owner of land” means

- (a) the person registered in a land titles office as the owner of the fee simple in the land, and
- (b) in the case of settlement patented land, a person registered as the owner in the Metis Settlements Land Registry established under the Metis Settlements Act, subject to any General Council Policy with respect to who is to be considered the registered owner of land for the purposes of this Division.

Enforcement of conservation easements

30(1) A conservation easement may be enforced by

- (a) the grantee, or
- (b) a qualified organization, other than the grantee, that the grantor has designated in writing as having the power to enforce the conservation easement, or by both the grantee and the qualified organization.

(2) A grantor may not designate more than one qualified organization at a time to enforce the conservation easement.

(3) A grantee may assign a conservation easement to another qualified organization.

(4) A grantee who assigns a conservation easement must immediately notify the grantor of that assignment.

Modification or termination of conservation easement

31 A conservation easement may be modified or terminated

- (a) by agreement between the grantor and the grantee, or
- (b) by order of a Designated Minister, whether or not the Designated Minister is a grantor or grantee, if the Designated Minister considers that it is in the public interest to modify or terminate the conservation easement.

Nature of conservation easements

32(1) A conservation easement constitutes an interest in land in the grantee.

(2) A conservation easement does not lapse by reason only of

- (a) non-enforcement of it,
- (b) the use of the land that is the subject of the conservation easement for a purpose that is inconsistent with the purposes of the conservation easement, or
- (c) a change in the use of land that surrounds or is adjacent to the land that is the subject of the conservation easement.

(3) With respect to settlement patented land, subsection (1) is subject to any General Council Policy.

Registration of conservation easement

33(1) A conservation easement may be registered

- (a) under the Land Titles Act with the Registrar of Titles, or
- (b) under the regulations under the Metis Settlements Act with the Registrar of the Metis Settlements Land Registry, subject to any General Council Policy.

(2) A person intending to register a conservation easement must give prior notice of the registration in accordance with the regulations to

- (a) the following persons, as required:

- (i) the Minister responsible for the Municipal Government Act, if the land that is the subject of the conservation easement is located in an improvement district;
 - (ii) the Special Areas Board, if the land that is the subject of the conservation easement is located in a special area;
 - (iii) the council of the municipality or the council of the Metis settlement in which the land that is the subject of the conservation easement is located,
- (b) the Minister of Infrastructure, and
- (c) the Minister of Transportation.

(3) When a conservation easement is presented for registration, the appropriate Registrar must endorse a memorandum of the conservation easement on the certificate of title to the estate or interest in land that is the subject of the conservation easement.

(4) If a conservation easement is modified or is terminated, one of the parties to the agreement, or a Designated Minister in the case of a modification or termination of the conservation easement under section 31(b), must register a copy of the document effecting the modification or termination with the appropriate Registrar, and the Registrar must endorse a memorandum on the certificate of title to the estate or interest in land noting the modification or discharging the registration, as the case may be.

(5) If a conservation easement expires, one of the parties to the agreement must notify the appropriate Registrar, and the Registrar must endorse a memorandum on the certificate of title to the estate or interest in land discharging the registration.

Effect of registration

34(1) A conservation easement that is registered under section 33 runs with the land and may be enforced whether it is positive or negative in nature and notwithstanding that the person wishing to enforce the conservation easement does not have an interest in any land that would be accommodated or benefited by the conservation easement.

(2) Subject to subsection (3), this Division applies notwithstanding section 48 of the *Land Titles Act*.

(3) A conservation easement is deemed to be a condition or covenant for the purpose of section 48(4) and (6) of the *Land Titles Act*.

(4) With respect to settlement patented land, subsection (1) is subject to any General Council Policy.

Conservation easement regulations

35 A Designated Minister may make regulations for the purpose of this Division.

Conservation Easements -- ALSA Simplified

Definitions

Organizations that are qualified to hold conservation easements:

- the Government (provincial gov't, gov't agency, local government)
- land trust (registered charity that acquires/holds interests in land for conservation)

Purpose of conservation easements

A conservation easement may be granted

- on all or part of the land
- for the protection, conservation and enhancement of
 - the environment;
 - natural scenic or esthetic values;
 - agricultural land or land for agricultural purposes;
- for following uses (consistent with the above)
 - recreational use;
 - open space use;
 - environmental education use;
 - use for research and scientific studies of natural ecosystems.

Enforcement of conservation easements

A conservation easement may be enforced by

- the grantee, or/and
- a qualified designate

Modification or termination of conservation easement

A conservation easement may be modified or terminated

- by agreement between the grantor and the grantee, or
- by order of a Designated Minister (if considered in the "public interest" to do so)

Nature of conservation easements

A conservation easement constitutes an interest in land in the grantee.

A conservation easement does not lapse by reason only of

- non-enforcement
- use of the land for a purpose inconsistent with the purposes of the CE
- a change in the use of land that surrounds

Registration of conservation easement

A conservation easement may be registered

- under the *Land Titles Act* with the Registrar of Titles, or
- under the regulations under the *Metis Settlements Act*.

Notification of intent to register a conservation easement

- Minister responsible for the *Municipal Government Act* (improvement district)
- Special Areas Board (special area)
- Council of the municipality (municipal district, county, town, city)
- Council of the Metis settlement (Metis settlement)
- Minister of Infrastructure, and
- Minister of Transportation.

A conservation easement that is registered under ALSA

- runs with the land
- may be enforced whether it is positive or negative in nature
- does not require a 'benefited' parcel.