

Step-by-Step Guide to Transferring Measure 49 Dwelling Authorizations

The process has three elements that can occur in parallel or sequentially:

- Convert
- Transfer
- Use

Convert

Once a county creates a Measure 49 (M49) transfer of development credits (TDC) program, the Department of Land Conservation and Development (DLCD) will create an online database and map of the county's M49 properties. A M49 property owner or a potential buyer of TDCs may consult these resources to see if their M49 authorizations are eligible to be converted into TDCs and a preliminary estimate of the number of credits they could get.

1. The M49 property owner applies to the county to convert their M49 authorizations into TDCs. The application states how many authorizations will be converted, whether bonus credits are sought, whether any prior partitions were based on the M49 authorizations, and whether the application is linked to a current land use application to use the credits.
2. The county evaluates the application based on the locally-adopted ordinance and the statewide administrative rules to determine whether the M49 authorizations are eligible for conversion, whether any prior M49 partitions will need to be vacated, and how many credits will be created, including any bonus credits.
3. If the county gives preliminary approval to the application, including the vacation of any prior M49 partitions, it then:
 - a) provides notice to DLCD and any proposed restrictive covenant or conservation easement where bonus credits are sought; and
 - b) requests an Amended Final Order (AFO) and TDC certificates from DLCD.
4. DLCD reviews the county request and, if consistent with administrative rules:
 - a) issues to the county an AFO documenting the number of dwellings authorized under M49 that have been converted to TDCs and the number that remain for use on the M49 property;
 - b) issues the applicable number of TDC certificates with unique serial numbers to the county;
 - c) co-signs any applicable restrictive covenant or conservation easement; and
 - d) enters the new TDCs and owner identification into the DLCD database.

5. The applicant signs any applicable restrictive covenant or conservation easement, obtains the signatures of the county or appropriate easement holder and records the document in the deed records of the county.
6. The county gives final approval and then:
 - a) records the AFO in the deed records of the county;
 - b) provides a copy of the recorded AFO and any applicable recorded restrictive covenant or conservation easement to DLCD; and
 - c) provides the TDC certificates to the applicant.

If the credits are not being immediately used in a linked land use application, then the owner has the option to:

- Transfer the credits (by sale or otherwise) to a new owner.
- Hold onto the credits for future transfer or use.

Transfer

1. The current owner of a credit uses the DLCD website to submit notice of a transfer of ownership.
2. DLCD sends a confirmation to the owner on file to prevent fraudulent transfers.
3. DLCD updates the database to reflect the new owner.

The new owner of a credit has the same options: transfer, use, or hold.

The DLCD will make information available on its website to help connect buyers and sellers of credits, and to authenticate who owns credits.

Use

1. A person using TDCs applies to the county to develop, partition and/or subdivide land within a designated receiving area. The application indicates the number of additional dwellings that the applicant's TDCs authorize and how many credits are required for the requested development.
2. The county provides notice of the application to DLCD and requests verification that the credits are available and belong to the applicant.
3. DLCD consults the database to verify the credits and their ownership, and provides the results to the county.
4. The county evaluates the application based on the locally-adopted ordinance and statewide administrative rules to determine whether the proposed development can be authorized.
5. If the county approves the application, it issues appropriate permits to the applicant, and provides notice to DLCD, including all supporting documents.
6. DLCD updates the database to record that the credits have been used.