

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

In the Matter of Establishing a Interim Procedure to Make )  
Vesting Determinations Under Oregon Statewide ) Order No. 151-2007  
Ballot Measure 49 )

WHEREAS, on November 6, 2007, state voters approved Oregon Statewide Ballot Measure 49 ("Measure 49"), adopting provisions into the Oregon Revised Statutes that substantially amend ORS 197.352; and

WHEREAS, various provisions in the Measure are not clear. It is probable that the Legislature, Department of Land Conservation and Development and the Courts will provide guidance in the interpretation of the Measure. However, until then, it is in the public interest of the citizens of Columbia County to adopt a process, pursuant to Measure 49, for determining in an impartial manner whether development rights have vested under ORS 197.352 as amended by Measure 49; and


WHEREAS, the Board of County Commissioners will review and, in all likelihood, need to amend the process as guidance in the interpretation of the Measure comes from the State and the Courts;

NOW THEREFORE, it is hereby ordered as follows:

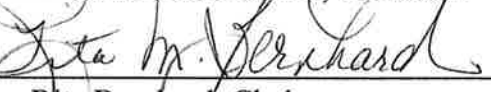
1. The Board of County Commissioners adopts the Procedure to Process Applications for Vesting Determinations under Oregon Statewide Ballot Measure 49 which is attached hereto as Attachment 1, and is incorporated herein by this reference.
2. The procedure set forth in Attachment 1, shall go into effect on December 6, 2007, and shall remain in effect unless amended.


Dated this 5<sup>th</sup> day of December, 2007.

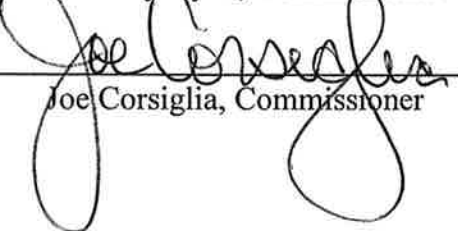
Approved as to form

By:   
County Counsel's Office

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

By:   
Rita Bernhard, Chair

By:   
Anthony Hyde, Commissioner

By:   
Joe Corsiglia, Commissioner

## ATTACHMENT 1

### PROCEDURE TO PROCESS APPLICATIONS FOR VESTING DETERMINATIONS UNDER OREGON STATEWIDE BALLOT MEASURE 49

- I. DEFINITIONS. For purposes of this Procedure, the following definitions shall have the meaning given, unless definitions are required by law or the context requires a different meaning:
- A. Application. Means the application for a vesting determination under Statewide Ballot Measure 49. Vesting Applications shall not be considered submitted under Ballot Measure 49 until the County accepts the Application after the requirements for submitting an Application under this procedure are fulfilled by the Claimant.
  - B. Claimant. Means one or more entities or persons who were issued a waiver or waivers under Ballot Measure 37 (ORS 197.352), prior to December 6, 2007.
  - C. Waiver. Means an action or decision of the County and/or State of Oregon to modify, remove or not apply one or more land use regulations under ORS 197.352 as in effect immediately before November 6, 2007, to allow the Claimant to use property for a use permitted when the Claimant acquired the property.

### II. APPLICATION FOR VESTING DETERMINATION

A Claimant who filed a claim under ORS 197.352 on or before June 28, 2007, may file an application for a vested rights determination to establish that the Claimant has a common law vested right as of December 6, 2007 to complete and continue the use described in the Waiver.

III. APPLICATION FEE. The fee to submit an Application shall be \$100.00. The Board of County Commissioners may, by order or resolution, modify the fee for processing Applications. The fee shall be based upon the reasonable cost to the County of processing such Applications including the cost of technical review.

### IV. APPLICATION FILING PROCEDURES.

- A. The Application shall be filed with the Land Development Services Department.
- B. Applications should be submitted on the Application Form approved by the Board of County Commissioners, which is attached hereto as Exhibit A, and is incorporated herein by this reference. The Board of County Commissioners may amend the Application Form at any time by a majority vote.

- C. The Application Form should be accompanied by all necessary information and materials and the appropriate filing fee, sufficient to demonstrate vesting under Measure 49. The Board of County Commissioners may waive the fee if the Claimant establishes a financial hardship. A complete Application Form includes all the information and materials listed on the Application Form. The Claimant is responsible for the completeness and accuracy of the Application and supporting information and materials.
- D. The Claimant should provide one Application Form for each separate parcel of property. The Board of Commissioners may waive multiple Application fees.

V. APPLICATION REVIEW.

- A. Completeness Review. Upon submission of an Application Form, the LDS Director (the "Director") will date-stamp the Application and verify that the Application fee has been submitted. The LDS Director will then review the Application and evaluate whether the Application is complete. After reviewing the Application, the Director may request additional information or materials where useful to address Application criteria, including but not limited to construction project bids, dated receipts and invoices, affidavits addressing construction start dates, and work completed as of November 6, 2007 and the related development expenditures incurred.
- B. Application Review. Following an investigation and review of the information submitted, the Director, upon consultation of the County Counsel's Office, shall assess any Application for Vesting Determination Under Statewide Ballot Measure 49, and make a determination that the Application be:
  - 1. Denied; or
  - 2. Approved or partially approved.
- C. Notice. The Director shall mail notice of the Application to the Claimant and to all owners of record of property, and to all owners of property within the quasi-judicial land use notice areas as set forth in ORS 197.763, as amended. The Director may mail such notice to additional property owners, if in the Director's discretion, the public interest in the Application reaches beyond the statutory notice area. The Director may also mail notice to the Oregon Department of Land Conservation and Development, and such other local and state agencies that may be interested in the Application.
- D. Notice Requirements. The Notice required herein shall:
  - 1. State the basis for the Application for Vesting Determination Under

Statewide Ballot Measure 49.

2. Identify the property by the street address or other easily understood geographical reference.
3. State that persons may provide written comments on the Application, and provide the date written comments are due.
4. Include a general explanation of the requirements for submission of written comments.
5. Identify the County representative and telephone number and contact information to obtain additional information; and
6. State that a copy of the Application and the supporting documents submitted by the Claimant are available for inspection at no cost, and that copies will be provided at reasonable cost.

- E. Comments. Written comments regarding an Application may be submitted to the Director. Any such comments must be received by the Director within fourteen (14) calendar days from the date that the Notice was mailed. The Claimant shall have an additional seven (7) calendar days from the end of the fourteen (14) day period to respond to any written comments received by the Director. The Claimant shall be responsible for verifying whether comments have been received by the Director.

VI. APPEAL TO BOARD OF COUNTY COMMISSIONERS.

- A. Appeals of Director decisions shall be to the Board of County Commissioners. Appeals shall be filed no later than fourteen (14) days from the date the Director's decision becomes final. If a determination by the Director is appealed, the Board of County Commissioners shall hold a hearing prior to making a determination as to whether development rights have vested under Ballot Measure 49.
- B. If an appeal hearing is conducted:
1. All documents or evidence relied upon by the Claimant shall be submitted to the Board of County Commissioners by the Director together with any additional information received or collected by the Director related to the Application.
  2. The Director shall prepare a staff report which shall make a recommendation to the Board of County Commissioners.

3. The Director shall give written notice of the hearing at least seven (7) days prior to the date of the hearing, to all persons entitled to notice under V(C) above.
  4. At the conclusion of the hearing, the Board of County Commissioners shall make a decision applying the standards of ORS Chapter 197, as amended by Ballot Measure 49, based on the information presented.
- C. Upon making a determination, the Board of County Commissioners shall notify the Claimant, and all persons who participated in the decision making process of the Board's decision.

VII. SEVERABILITY.

If any phrase, clause, or other part of this Procedure is found to be invalid by a court of competent jurisdiction, the remaining phrases, clauses and other part or parts shall remain in full force and effect.

VIII. APPLICABLE STATE LAW, NO INDEPENDENT RIGHTS CREATED.

For all Applications filed, the applicable state law is that portion or portions of ORS Chapter 197, added or made part of said chapter by Ballot Measure 49, passed on November 6, 2007, and as amended, modified, recodified or clarified by subsequent amendments or regulations adopted by the Oregon State Legislature or by the State of Oregon. Any Application that has not been processed completely under this Article shall be subject to any such amendments, modifications, clarifications or other actions taken at the State level and this Procedure shall be read in a manner so as not to conflict with such amendments, modifications, clarifications or other actions taken at the State level. This Procedure is adopted solely to address Vesting Determination Applications filed under the authority of those provisions of Oregon Revised Statutes adopted by Ballot Measure 49, passed November 6, 2007. No rights independent of said provisions are created by adoption of this Procedure. This Procedure may be amended by the Board of County Commissioners at any time.

IX. VENUE.

Venue for all claims against Columbia County arising from Vesting Determinations shall be at the Land Use Board of Appeals or, where the Land Use Board of Appeals does not have jurisdiction, then review shall be exclusively by means of writ of review under ORS 34.010-34.102 in the Circuit Court of the State of Oregon for Columbia County.



OREGON

**APPLICATION**  
**Vested Right Determination Under**  
**Statewide Ballot Measure 49.**

Land Development Services - Planning Division  
Columbia County Courthouse  
230 Strand, St. Helens, OR 97051 (503) 397-1501

**APPLICANT INFORMATION**

\_\_\_\_\_  
Name(s) of Applicant(s):

\_\_\_\_\_  
Daytime phone #

\_\_\_\_\_  
Mailing address for Applicant(s)

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Mailing address for Applicant(s)

\_\_\_\_\_  
City, State, Zip

Property Information:  
(List each parcel/dwelling separately)  
Property location/address

Property Tax Account #

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**APPLICATION INFORMATION:**

**Measure 37 Claim Information**

(Attach copies of County and State Final M37 Claim Decisions)

1) County M37 Claim:

Claim File No \_\_\_\_\_ Board Order No. \_\_\_\_\_ Decision Date: \_\_\_\_\_  
Claim File No \_\_\_\_\_ Board Order No. \_\_\_\_\_ Decision Date: \_\_\_\_\_  
Claim File No \_\_\_\_\_ Board Order No. \_\_\_\_\_ Decision Date: \_\_\_\_\_  
Claim File No \_\_\_\_\_ Board Order No. \_\_\_\_\_ Decision Date: \_\_\_\_\_

2) State of Oregon M37 Claim

Claim File Number \_\_\_\_\_ Decision No. \_\_\_\_\_ Decision Date: \_\_\_\_\_

Claim File Number \_\_\_\_\_ Decision No. \_\_\_\_\_ Decision Date: \_\_\_\_\_

Claim File Number \_\_\_\_\_ Decision No. \_\_\_\_\_ Decision Date: \_\_\_\_\_

Claim File Number \_\_\_\_\_ Decision No. \_\_\_\_\_ Decision Date: \_\_\_\_\_

**Property Development Information**

1) Proposed Use: \_\_\_\_\_

2) Number of Parcels/Dwellings: \_\_\_\_\_

3) Parcel/Dwelling Development Information

Complete the attached Parcel/Dwelling Property Information Sheet for each parcel/dwelling referred to in your Measure 37 decision. Attach all completed Property Information Sheets to this application.

**SIGNATURES**

I/we certify that the information contained in and attached to this application form is accurate and complete.

\_\_\_\_\_  
Claimant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Claimant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Claimant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Claimant

\_\_\_\_\_  
Date

**FOR OFFICIAL USE ONLY**

Date Received \_\_\_\_\_ Receipt # \_\_\_\_\_ Received By: \_\_\_\_\_

**Parcel/Dwelling Property Development Information Sheet**

Submit a **separate** property development information sheet for **each parcel/dwelling** to be developed under a Measure 37 waiver. If there are improvements or other expenditures which relate to more than one parcel or dwelling (ie road and utility improvements), please provide information concerning the pro-rata share of these improvements or expenditures on separate sheets for each parcel or dwelling.

1) Property Location: Parcel No: \_\_\_\_\_  
Address(if assigned): \_\_\_\_\_

2) Development Permits:

List all land use, building and other development permits approved or issued for the proposed parcel/dwelling (Example: Partition, Conditional Use, Building Permit, Septic Permit).

Type of Permit	Case No.	Application Date	Approval Date

2) Project Improvements At Completion:

a. Total Project Description at completion: (Site work, buildings, sq. ft., related work):

---



---



---



---

b. Total Costs to Complete Project :

Provide a breakdown of estimated **total** proposed project costs including proposed start and completion date by project item. Attach documents such as construction contracts, bids, signed estimates or related documents used to determine the cost listed for each project cost item.

Project Item	Projected Start	Projected Completion	Cost

Total Project Cost: \_\_\_\_\_

5) **Completed** Project Improvements:

Provide a breakdown of **completed** work on the project including start dates and completion dates by project item as of **November 6, 2007**. Attach documents indicating monies spent toward completion of the project such as dated receipts, affidavits from contractors/vendors regarding work completed or related documents used to determine the cost listed for each completed project cost item. Use additional sheets if necessary.

Project Item	Start	Completed On	Cost

Cost of Completed Project Work As of November 6, 2007: \_\_\_\_\_