

LINN COUNTY PLANNING & BUILDING DEPARTMENT

**APPLICATION FOR
M49 VESTING RIGHTS DECISION**

PD File # _____

Date _____

Rec'd By _____

Fee rec'd _____

300 4th Avenue SW, PO BOX 100, Albany OR 97321

• Tel: 541.967.3816 • Fax: 541.926.2060

APPLICANT			OTHER OWNER		
Last Name	First	MI	Last Name	First	MI
Mailing Address (Street or PO Box)			Mailing Address (Street or PO Box)		
City	State	Zip	City	State	Zip
Telephone			Telephone		
List any other owners of subject property:					
PROPERTY INFORMATION					
Tax Lot(s) _____			Size of parcel: _____		
Street address, if any: _____					

Note: LCC 237 allows a Measure 37 claimant to obtain a determination by the county Planning Director as to whether the claimant has a vested right to continue and complete a use allowed under a State and a County order granting Measure 37 relief on the property subject to the determination (the “subject property”). The determination is referred to as the “M49 vesting decision.” This application is required by LCC 237 before the M49 vesting decision may be reviewed on appeal by the Board of County Commissioners for Linn County and before a final decision may be made the subject of a judicial review in a court.

Note: If the holder of the M37 waiver is unable to demonstrate that the holder has substantially satisfied the terms and conditions of the M37 waiver resolution on or before December 6, 2007, the holder shall not be entitled to a common law vesting right. If the holder of the M37 waiver is able to demonstrate that the holder has substantially satisfied the terms and conditions of the M37 waiver resolution on or before December 6, 2007, the holder may be entitled to a common law vesting right determination. The Planning Director, and the Board on appeal, is authorized to make the determination whether the applicant has substantially complied with such terms and conditions and the criteria set forth in LCC 237.160(C).

THE APPLICANT MUST SUBMIT ALONG WITH THIS APPLICATION:

1. The legal description of subject property.
2. A copy of the State of Oregon order granting Measure 37 relief for the subject property.
3. Any additional information you deem appropriate to enable the Planning Director to make a M49 vesting decision.

Note: LCC 237.160 states that “In determining whether the applicant has a vested right to continue and complete a use allowed by a Board resolution granting Measure 37 relief, the decision-maker must consider [several] factors based on the evidence submitted in the application.” They include, and you must provide evidence addressing these factors:

4. The amount of money spent on developing the use in relation to the total cost of project approved in the State and County M37 waivers.
5. The good faith of the property owner.
6. Whether the property owner had notice of the proposed change in law before beginning development.
7. Whether the improvements could be used for other uses that are allowed under the new law.
8. The kind of use, location, and cost of the development.
9. Whether the owner’s acts rise beyond mere contemplated use or preparation, such as the leveling of land, boring test holes, or preliminary negotiations with contractors or architects.
10. Other relevant factors.

Please complete this application and attach the information required in this application and the additional information required by LCC 237.110(C) and any other documents desired to assist the Planning Director in making a decision. Once the Planning Director determines the application is complete, notice of the application will be provided to surrounding property owners and to others. Public comments on the application will then be received for 21 calendar days. If public comments are received, the applicant has 14 calendar days to provide rebuttal comments. The M49 vesting decision is subject to judicial review.

I hereby declare under penalties of false swearing (ORS 162.075 and 162.085) that the information submitted with this application is true and correct to the best of my knowledge.

I understand that issuance of a M49 vesting decision is subject to appeal to the Board of Commissioners for Linn County and that a decision made from an appeal is subject to review by the circuit court. I understand that judicial review by the circuit court is limited to information in the record before the Board at the time the final vesting decision is made. I understand it is unlikely the court will accept any additional factual information regarding vesting of the Measure 37 waiver other than information in the record before the Board at the time the final vesting decision is made.

I understand that due to uncertainties of Measure 49, I proceed with any development based on a Measure 37 waiver at my own risk. I understand that any M49 vesting decision will not excuse me from complying with any other applicable ordinances and laws regulating the use of the land and buildings. I hereby grant permission for and consent to Linn County, its officers, agents, and employees coming upon the subject property to gather information and inspect the property whenever it is reasonably necessary for the purpose of processing this application.

Applicant's signature _____ Date _____

Additional property owner's signature _____ Date _____

Additional property owner's signature _____ Date _____

Additional property owner's signature _____ Date _____

Additional property owner's signature _____ Date _____

Additional property owner's signature _____ Date _____

