Planning and Zoning
Department of Transportation and Development
Development Services Building
150 Beavercreek Road | Oregon City, OR 97045
503-742-4500 | zoninginfo@clackamas.us
www.clackamas.us/planning

STAFF USE ONLY

Staff Initials: *File Number:*

Land use application for:

VESTED RIGHT DETERMINATION

Application may include an expanded notification area fee if required by ZDO Section 1307.

APPLICANT INFORMATION			
Applicant name:	Applicant email:	Applicant phone:	
Applicant mailing address:	City:	State:	ZIP:
Contact person name (if other than applicant):	Contact person email:	Contact person phone:	
Contact person mailing address:	City:	State:	ZIP:

PROPOSAL
Brief description of proposal:

SITE INFORMATION		
Site address:	Comprehensive Plan designation:	Zoning district:
Map and tax lot #: *Township:* _____ *Range:* _____ *Section:* _____ *Tax Lot:* _____ *Township:* _____ *Range:* _____ *Section:* _____ *Tax Lot:* _____ *Township:* _____ *Range:* _____ *Section:* _____ *Tax Lot:* _____		Land area:
Adjacent properties under same ownership: *Township:* _____ *Range:* _____ *Section:* _____ *Tax Lot:* _____ *Township:* _____ *Range:* _____ *Section:* _____ *Tax Lot:* _____		

Printed names of all property owners:	Signatures of all property owners:	Date(s):

I hereby certify that the statements contained herein, along with the evidence submitted, are in all respects true and correct to the best of my knowledge.

Applicant signature:	Date:

A. Review applicable land use rules:

This application is subject to the provisions of Section 1206, *Nonconforming Uses and Vested Rights* of the Clackamas County Zoning and Development Ordinance (ZDO).

It is also subject to the ZDO's definitions, procedures, and other general provisions, as well as to the specific rules of the subject property's zoning district and applicable development standards, as outlined in the ZDO.

B. Turn in all the following:

☐ **Complete application form:** Respond to all the questions and requests in this application, and make sure all owners of the subject property sign the first page of this application. Applications without the signatures of *all* property owners are incomplete.

☐ **Application fee:** The fee for this application is established in the adopted *Fee Schedule.* An additional notification surcharge may apply if an expanded notification area is required by ZDO Section 1307. Payment can be made by cash, by check payable to "Clackamas County", or by credit/debit card with an additional processing fee using the *Credit Card Authorization Form* available from the Planning and Zoning website. Payment is due when the application is submitted. Refer to the FAQs at the end of this form and to the adopted Fee Schedule for refund policies.

☐ **Site plan:** Provide a site plan (also called a plot plan). A *Site Plan Sample* is available from the Planning and Zoning website. The site plan must be accurate and drawn to-scale on paper measuring no larger than 11 inches x 17 inches. The site plan must illustrate all of the following (when applicable):

- Lot lines, lot/parcel numbers, and acreage/square footage of lots;
- Contiguous properties under the same ownership;
- All existing and proposed structures, fences, roads, driveways, parking areas, and easements, each with identifying labels and dimensions;
- Setbacks of all structures from lot lines and easements;
- Significant natural features (rivers, streams, wetlands, slopes of 20% or greater, geologic hazards, mature trees or forested areas, drainage areas, etc.); and
- Location of utilities, wells, and all onsite wastewater treatment facilities (e.g., septic tanks, septic drainfield areas, replacement drainfield areas, drywells).

C. Also submit any of the following, as applicable:

☐ **Description of requested vested right:** Attach a written narrative that fully describes the nature of the right you are trying to qualify as "vested" with this application. Identify, with specific dates if possible, when the existing/proposed use, structures, and/or physical improvements were established.

☐ **Evidence of the following:** Attach documents and records substantiating:

- The types of expenditures incurred, how the expenditures were related to the completion of the project, and how the expenditures could not serve other uses of the land
- The ratio of expenses incurred at the time of the proposed change in law to the total cost of the completed project
- The good faith of the landowner
- Whether or not the landowner had notice of any proposed change or mandatory change in law before starting the use or improvements
- How the acts of the landowner rise beyond mere contemplated use or preparation (contemplated use or preparation includes such acts as leveling of land, boring of test holes, or preliminary negotiations with contractors or architects)

☐ **Expenditures list:** Attach a list of expenditures incurred developing the use in relation to the total cost of establishing the use.

☐ **Consideration of other potential uses:** Explain in an attached written narrative why the improvements for the use could or could not be used for purposes allowed by the current zoning of the subject property.

☐ **Timeline of improvements:** Attach a timeline describing the sequence of events establishing the proposed use or improvements, including details of when specific improvements or other work began and when such work was completed.

☐ **Copies of Measure 37 decisions:** If the application is related to a Measure 37 claim, attach copies of both County and State Measure 37 claim decisions.

☐ **Measure 37 expense information:** If related to a Measure 37 claim, attach information regarding any expenditures for work (if any) and explanations of why it was initiated, continued, or completed after Measure 49 was referred to the ballot by the 2007 Oregon Legislature. Also attach information regarding any expenditures for work (if any) and explanations of why it was initiated, continued, or completed after Measure 49 took effect on December 6, 2007.

☐ **Copies of permit documents:** Attach copies of information regarding land use, building, septic, or other permit documents.

☐ **Copies of other property records:** Attach copies of utility records, dated photographs, County property tax appraisal information, dated aerial photographs, and tax records for the subject property.

☐ **Copies of establishment and continuity evidence:** Attach copies of receipts, licenses, bills of sale, notarized affidavits, etc. demonstrating the date of establishment the proposed use, structure(s), and/or physical improvements, and the continuity of any portions of the use since established.

FAQs

What is a vested right?
A “vested right” protects a land use that is not yet fully established but would otherwise be prohibited under current land use regulations. Approval of a Vested Right Determination authorizes a property owner to complete and continue a use of real property even though the law has changed. Based upon decisions of the Oregon courts, a Vested Right Determination is based on prior court cases, rather than on approval criteria in the Zoning and Development Ordinance (ZDO). Typically, the primary issue in these determinations is whether there has been a sufficient good-faith commitment to a particular use that it may be completed even though it will become nonconforming to current land use regulations. Vested rights are considered on a case-by-case basis.

What is the application process for a Vested Right Determination?
Applications for vested right determination are subject to a “Type II” land use application process, as provided for in Section 1307 of the ZDO. Type II decisions include notice to owners of nearby land, the Community Planning Organization (if active), service providers (sewer, water, fire, etc.), and affected government agencies. If the application is approved, the applicant must comply with any conditions of approval identified in the decision. The Planning Director’s decision can be appealed to the County Hearings Officer.

What is needed for the County to determine if a use or improvement is a vested right?
For a use, structure, or other physical improvements to be considered a lawfully established vested right, the applicant must submit evidence to prove there was a good faith commitment to complete the use, structure, or other physical improvements before the relevant change in law was proposed. Factors to be considered when determining a vested right have been established over time through court cases and include factors in the information, records, and documentation requested in this application form. A determination will only be made after a complete application is received and reviewed. The County approves an application only if it finds that the proposal meets the standards.

How long will it take the County to make a decision about an application?
The County makes every effort to issue a decision on a Type II land use application within 45 days of when we deem the application to be complete. State law requires a final County decision on a land use permit application in an urban area within 120 days of the application being deemed complete, and within 150 days for a land use permit in a rural area.

If an application is submitted and then withdrawn, will a refund be given?
Please see Planning & Zoning Fee Schedule under "Other Fees" ***here.*** The $5 Technology Fee is non-refundable.

Who can help answer additional questions?
For questions about the County’s land use permit requirements and this application form, contact Planning and Zoning at **503-742-4500** or zoninginfo@clackamas.us. You can also find information online at the Planning and Zoning website: www.clackamas.us/planning.

Clackamas County is committed to providing meaningful access and will make reasonable accommodations, modifications, or provide translation, interpretation or other services upon request. Please contact us at 503-742-4545 or drenhard@clackamas.us.

503-742-4545: ¿Traducción e interpretación? | Требуется ли вам устный или письменный перевод? 翻译或口译？| Cần Biên dịch hoặc Phiên dịch? | 번역 또는 통역?