

*Development Services Department  
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**Office Use Only**

Date Received: \_\_\_\_\_

Process No. \_\_\_\_\_

## VESTED RIGHTS DETERMINATION APPLICATION

**APPLICANT INFORMATION:**

APPLICANT'S MAILING ADDRESS, TELEPHONE NUMBER:

Name of Applicant: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone#: \_\_\_\_\_ E-mail: \_\_\_\_\_

**OWNER INFORMATION:**

OWNER'S NAME, MAILING ADDRESS, TELEPHONE NUMBER:

Owner's Name (Provide name of ALL owners): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone#: \_\_\_\_\_ E-mail: \_\_\_\_\_

**DULY APPOINTED AGENT INFORMATION:**

CONTACT PERSON, MAILING ADDRESS, TELEPHONE NUMBER:

Contact Name: \_\_\_\_\_ Company: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone#: \_\_\_\_\_ E-mail: \_\_\_\_\_

**PREVIOUS APPROVALS:**

Previously approvals (list all previous approvals that substantial compliance or administrative modification is being sought):


date approved:	
date approved:	
date approved:	

**SUBMITTAL CHECKLIST**

<u>Required</u>	<u>Provided</u>	<u>Description</u>
<input type="checkbox"/>	<input type="checkbox"/>	<b>Application</b> – original application <u>completely</u> filled out and properly executed.
<input type="checkbox"/>	<input type="checkbox"/>	<b>Justification for Determination</b> – letter providing the provisions of section 34-62 that apply for determination of vested rights; and how the development meets the criteria to be vested; provide any supplemental and supportive documentation that supports your claim.
<input type="checkbox"/>	<input type="checkbox"/>	<b>Previous approvals</b> – provide one (1) copy of evidence of previous approval(s) of which the vested rights is being sought; include copy of any previously plans; include one (1) PDF version of all documents.
<input type="checkbox"/>	<input type="checkbox"/>	<b>Applicant Affidavit</b> – fully executed. See enclosed.
<input type="checkbox"/>	<input type="checkbox"/>	<b>Fees:</b> See fee schedule below.

**FEE SCHEDULE**

<u>Description</u>	<u>Fee</u>	<u>Applicable</u>
Zvest1 Vested Rights Determination (single family lot,)	\$1,500.00	<input type="text"/>
Zvest2 Vested Rights Determination (non-residential/mixed use/ multi-family, all other)	\$4,224.00	<input type="text"/>
<b>Total</b>		<input type="text"/>
<b>15% surcharge</b>		<input type="text"/>
<b>Grand Total</b>		<input type="text"/>

*NOTE: Please make all checks payable to 'City of Miami Gardens' / Cash, Credit or Debit accepted*

**APPLICANT AFFIDAVIT**

**PROPERTY OWNER**

(I)(WE), being first duly sworn, depose and say that (I am) (we are) the  owner,  duly authorized to sign on behalf of the property owner, of the property herein described and which is the subject matter of the proposed application. (I)(WE) certify that all the forgoing information is accurate and that all work will be done in compliance with all applicable laws regulating construction and zoning.

And,  
 (I) (WE) hereby authorize \_\_\_\_\_, as the contractor , applicant  or contact person  to submit and obtain the necessary permit(s).

Property Owner Signature: \_\_\_\_\_ Print Name: \_\_\_\_\_  
 Sworn to and subscribed before me on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Personally known to me  Produced Identification  Type of Identification \_\_\_\_\_

Notary

(Stamp/Seal)

Commission Expires:

## **EXCERPTS FROM CHAPTER 34-62 Vested Rights**

### **Sec. 34-62 – Vested Rights**

Except if allowed to continue as a nonconforming use under sections 34-58 through 34-61, all existing, proposed and new development or redevelopment and uses of land in the city shall conform strictly to the provisions of these LDRs. Except as expressly provided in these LDRs, no development and use of land shall be undertaken without prior approval and issuance of a development order pursuant to the provisions of these LDRs. The fact that a development order, permit or decision has been issued by an officer or employee with apparent but not actual authority over the interpretation or enforcement of these LDRs shall not stop or otherwise prevent the city from strict enforcement of the provisions of these LDRs. A zoning classification or a rezoning does not guarantee or vest any specific development rights.

#### **(1)**

*Exceptions for vested rights determination.* Nothing in this chapter shall be construed or applied to abrogate the vested right of a property owner to complete development where it is determined that the property owner demonstrates each of the following:

##### **a.**

The provisions of this chapter, and any amendments hereto, shall not affect development which has obtained a final development order from the city after January 1, 2009, but before adoption hereof of the LDRs and is otherwise exempted in accordance with the provisions of subsection (3) of this section;

##### **b.**

That the property is a single-family residential lot, duplex, or townhouse unit that has been granted a non-use variance or waiver prior to the effective date of the adoption of the Land Development Regulations.

#### **(2)**

*Vested rights determination.* Except as provided in subsection (1) of this section, any property owner claiming to have vested rights under this section must file an application in a form approved by the administrative official for a vested rights determination within two (2) years after the initial effective date of this chapter (as to any claim of vested rights prior to initial adoption) or within one (1) year after an amendment of this chapter (as to any claim of vested rights arising after the initial adoption of this chapter and prior to the amendment). The application shall be accompanied by a fee, and contain a sworn statement as to the basis upon which the vested rights are asserted together with documentation required by the city and other documentary evidence supporting the claim. The administrative official shall review the application and based upon the evidence submitted shall make a determination within 90 days as to whether the property owner has established vested rights.

##### **a.**

Appeals. The administrative official's decision shall be subject to appeal, by only the applicant for vested rights determination, to the zoning appeals board as an appeal of an administrative interpretation. Such notice of appeal filed shall be filed with the administrative official within 30 days after the administrative official's written decision.

##### **b.**

Vested rights determination agreement. The administrative official is authorized to enter into a vested rights determination agreement describing the applicable development criteria pursuant to which rights are vested, to clearly guide future development. In the event that vested rights are found to exist to complete development in accordance with prior governmental approval, under

circumstances in which certain ancillary components of a proposed development are not vested, the administrative official may administratively grant variances concerning such ancillary components, so long as the administrative official finds such variances are compatible with surrounding uses and structures and necessary to fairly implement the vested rights.

- c. Where there is a proffered declaration of restrictive covenant on a property where it is determined that there are no vested rights, the administrative official release, modify, or revise the covenant appropriately either administratively or by action of the city council.

(3)

*Vested rights by judgment.* Any property owner claiming to have vested rights under this section, by virtue of:

- a. A court judgment rendered by a court of competent jurisdiction;
- b. County vested rights determination; or
- c. State department of community affairs vested rights determination may follow the simplified procedure authorized by this subsection in lieu of the procedure provided by subsection of this section. The procedure under this subsection (3) shall be as follows:

1.

*Application.* The property owner claiming such vested rights shall file an application with the administrative official for a vested rights determination within 120 days after the effective date of this chapter. The application shall be accompanied by a fee determined by the administrative official and contain a sworn statement as to the basis upon which the vested rights are asserted, together with documentation of the applicable qualifying items in subsections a—c of this section or required by the city and other documentary evidence supporting the claim. The administrative official shall review the application, and based upon the evidence submitted shall make a determination, within 60 days, as to whether the property owner has established vested rights. Vested rights applications pursuant to the criteria of this subsection shall be presumed to exist, upon submittal of the qualifying items in subsections (3)a—c of this section, unless clear and convincing evidence shows that vested rights have been waived, have expired or are not applicable, in whole or in part.

2.

*Vested rights determination agreement.* The administrative official is authorized to enter into a vested rights determination agreement describing the applicable development criteria pursuant to which rights are vested, to clearly guide future development. In the event that vested rights are found to exist to complete development in accordance with prior governmental approval, under circumstances in which certain ancillary components of a proposed development are not vested, the administrative official may administratively grant variances concerning such ancillary components, so long as the administrative official finds such variances are compatible with surrounding uses and structures and necessary to fairly implement the vested rights.

3.

*Appeals.* The administrative official's decision shall be subject to appeal, by only the applicant for vested rights determination, to the zoning appeals board as an appeal of an administrative interpretation by notice of appeal filed with the administrative official within 30 days after the administrative official's written decision.

4.

*Exception.* The provisions of this chapter shall not affect development for which a building permit has been issued on or before the effective date of the initial adoption of this chapter (unless issued during the period of zoning in progress under circumstances under which compliance with this chapter was noted as a permit condition), provided that such building permit was lawfully issued and remains in full force and effect and the approval has not expired as set forth in section 34-53. Upon completion of such development, the development will be subject to the provisions of this chapter except as otherwise provided herein.

(4)

*Failure to file for vested rights determination.* Failure to file for a vested rights determination within the specified time periods set forth in this section shall be construed as a waiver of vested rights for said development.

(5)

*Landscaping and buffering requirements.* A development that has been determined to have vested rights shall be in compliance with the landscape and buffering requirements within five years, as set forth in article XIV of this chapter.

(6)

*Standards.* In order to establish vested rights pursuant to this section the applicant shall establish the following:

a.

The property owner has relied in good faith upon some act or omission of the city prior to January 1, 2009, or act or omission of the county occurring prior to incorporation of the city, and has made such a substantial change in position or incurred such extensive obligations and expenses to his detriment that it would be highly inequitable to deny relief; or

b.

The applicant has the right to complete development pursuant to F.S. § 163.3167(8) because a development permit issued from the city or county, and development has lawfully commenced on the property for which the applicable development permit has been issued and is continuing in good faith. The development permit must have been issued prior to the adoption of the ordinance from which this chapter is derived which the applicant contends should not be strictly applied to him because of vested rights. Good faith reliance shall not include ignorance or unawareness of the law.