

Current Developments and Issues in Title Insurance

DAWN M. LEWALLEN

FIRST AMERICAN TITLE INSURANCE COMPANY

(713) 402-4377

DLEWALLEN@FIRSTAM.COM

New ALTA Endorsement Forms

- **NEW! ALTA Endorsement 3.3-06 (Zoning- Completed Improvements- Non-Conforming Use) (12-01-18)**
- **NEW! ALTA Endorsement 3.4-06 (Zoning- No Zoning Classification) (12-01-18)**
- **NEW! ALTA Endorsement 18.3-06 (Single Tax Parcel and ID) (12-01-18)**
- **REVISED! ALTA Endorsement 9-06 Restrictions, Encroachments, Minerals – Loan Policy (04-02-2012) has been corrected to align the text following paragraph 4.a.ii. for clarity.**
- **REVISED! ALTA Endorsement 32-Series have been corrected to remove the reference to “Loss of Priority” in the name of the endorsement as follows:**
 - From “ALTA Endorsement 32-06 Construction Loan - Loss of Priority” to “ALTA® Endorsement 32-06 Construction Loan”
 - From “ALTA Endorsement 32.1-06 Construction Loan - Loss of Priority - Direct Payment” to “ALTA Endorsement 32.1-06 Construction Loan - Direct Payment”
 - From “ALTA Endorsement 32.2-06 Construction Loan - Loss of Priority - Insured’s Direct Payment” to “ALTA Endorsement 32.2-06 Construction Loan - Insured’s Direct Payment”

ALTA 3.3-06

(Zoning-Completed
Improvements- Non-
Conforming Use)

American Land Title Association
Zoning—Completed Improvement—Non-Conforming Use
Endorsement 3.3(06)
Adopted 12-01-2018

ALTA 3.3(06) ZONING—COMPLETED IMPROVEMENT—NON-CONFORMING USE ENDORSEMENT

This endorsement is issued as part of
Policy Number _____
Issued by
BLANK TITLE INSURANCE COMPANY

1. For purposes of this endorsement:
a. "Improvement": A building located on the Land at the Date of Policy.
b. "Non-Conforming Use": The use of the Land described in Section 2.a. existing at the Date of Policy and before the Zoning Ordinance was enacted, although the use is not authorized in the Zoning Ordinance.
c. "Zoning Ordinance": A municipal or county zoning ordinance or zoning regulation applicable to the Land at the Date of Policy.

2. The Company insures against loss or damage sustained by the Insured resulting from:
a. The following Non-Conforming Use not being allowed by the municipality or county because the Non-Conforming Use violates a Zoning Ordinance:
[DRAFTING INSTRUCTION: Describe the existing Non-Conforming Use]
b. A final decree of a court of competent jurisdiction either prohibiting the Non-Conforming Use or requiring the removal or alteration of the Improvement because, at the Date of Policy, the Non-Conforming Use violates a Zoning Ordinance with respect to any of the following matters:
i. The area, width, or depth of the Land as a building site for the Improvement;
ii. The floor space area of the Improvement;
iii. A setback of the Improvement from the property lines of the Land;
iv. The height of the Improvement; or
v. The number of parking spaces.

3. Section 2 does not insure against loss or damage and the Company will not pay costs, attorneys' fees, or expenses resulting from:
a. The lack of compliance with any condition, restriction, or requirement contained in a Zoning Ordinance regarding the continuation or maintenance of the Non-Conforming Use;
b. The failure to secure necessary consents or authorizations as a condition for continuing the Non-Conforming Use;
c. The invalidity of a Zoning Ordinance, the effect of which is to prohibit the Non-Conforming Use;
d. Any change, rescission, abandonment, or replacement of the Non-Conforming Use or an improvement;
e. A prohibition to restore an improvement;
f. The violation of or the lack of compliance with any law, order, or regulation regarding the continuation or maintenance of the Non-Conforming Use or an improvement;
g. Any law, order, or regulation requiring the amortization, expiration, or elimination by passage of time of the Non-Conforming Use; or
h. Any refusal to purchase, lease, or lend money on the Title.

This endorsement is issued as part of the policy. Except as this endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, (iv) insure against loss or damage exceeding the Amount of Insurance, or (v) increase the Amount of Insurance. To the extent a provision of the policy or any prior endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and any prior endorsement.

[Witness clause optional]

[DATE]
BLANK TITLE INSURANCE COMPANY
By: _____
Authorized Signatory

Copyright 2018 American Land Title Association. All rights reserved.
The use of this form is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.

ALTA 3.4-06

(Zoning- No Zoning
Classification)

American Land Title Association
Zoning—No Zoning Classification
Endorsement 3.4(06)
Adopted 12-01-2018

ALTA 3.4(06) ZONING—NO ZONING CLASSIFICATION ENDORSEMENT

This endorsement is issued as part of
Policy Number _____
Issued by
BLANK TITLE INSURANCE COMPANY

1. For purposes of this endorsement:
a. "Improvement": A building or structure located on the Land at the Date of Policy.
b. "Zoning Ordinance": A municipal or county zoning ordinance or zoning regulation applicable to the Land at the Date of Policy.

2. The Company insures against loss or damage sustained by the Insured resulting from:
a. The following use not being allowed by the municipality or county because the use violates a Zoning Ordinance:
[DRAFTING INSTRUCTION: Describe the existing use]
b. A final decree of a court of competent jurisdiction either prohibiting the use or requiring the removal or alteration of the Improvement because, at the Date of Policy, the use violates a Zoning Ordinance with respect to any of the following matters:
i. The area, width, or depth of the Land as a building site for the Improvement;
ii. The floor space area of the Improvement;
iii. A setback of the Improvement from the property lines of the Land;
iv. The height of the Improvement; or
v. The number of parking spaces.

3. Section 2 does not insure against loss or damage and the Company will not pay costs, attorneys' fees, or expenses resulting from:
a. Any other regulation or restriction of use or activity on the Land:
i. Imposed by a covenant, condition, restriction, or limitation on the Title; or
ii. Imposed by a state or federal law, statute, code, enactment, ordinance, permit, regulation, rule, order, or court decision;
b. Any refusal to purchase, lease, or lend money on the Title; or
c. Any zoning ordinance or zoning regulation adopted after the Date of Policy.

This endorsement is issued as part of the policy. Except as this endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, (iv) insure against loss or damage exceeding the Amount of Insurance, or (v) increase the Amount of Insurance. To the extent a provision of the policy or any prior endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and any prior endorsement.

[Witness clause optional]

[DATE]
BLANK TITLE INSURANCE COMPANY
By: _____
Authorized Signatory

Copyright 2018 American Land Title Association. All rights reserved.
The use of this form is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Current Developments and Issues in Title Insurance

Also available as part of the eCourse

[Residential Real Estate Lending Hot Topics: Litigation Updates, Industry Updates, eClosings, and Title Insurance](#)

First appeared as part of the conference materials for the
53rd Annual William W. Gibson, Jr. Mortgage Lending and Servicing Institute session
"Current Developments and Issues in Title Insurance"