



# CHICAGO BULL

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## **Endorsement Corner: ZONING** **(ALTA Endorsement 3-06, 3.1-06, and 3.2-06)**

Hey everyone! It's endorsement time. I know what you're thinking: "We're twenty-seven, or so, blog entries in to this thing and you've yet to discuss endorsements to the policy." I know this because we've had hundreds of requests about discussing individual endorsements and their practical effect on the policy. Seriously.

Why do we have endorsements? Well, at the initial outset of these animals, they were to specifically alter terms of the policy, usually exclusions. They later evolved in to more extreme versions of themselves, some covering matters that had nothing to do with title matters at all. I'm looking at you Creditors' Rights Endorsement.

The ALTA 3-06 and 3.1-06 were built to give coverage where the policy jacket exclusions take it away. Specifically, the policy excludes coverage for loss from any "law, ordinance, permit or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to..." all kinds of things having to do with your property. These matters are not typically a matter of public record and not usually included in an attorney's certification. So, if you have a zoning setback violation, a use that isn't compliant with the zoning (like an office in a residentially zoned neighborhood), or not enough handicapped spaces, you have no coverage under your title policy.

So, what if you want this coverage? Then the aforementioned endorsements are, to a reasonable extent, what you are looking for. The 3-06, subject to the full terms and conditions of the policy and endorsement, covers you for loss or damage arising from the property not being zoned what the endorsement says it is and from loss or damage caused by the endorsement's stated specified use not being allowed. The 3.1-06 goes further to give some coverage for physical characteristics of the improvements on the property. For example: height, setback, parking spaces, etc.

Of course, we underwrite this to make sure that we have accurate information that the property is so zoned and that the use is appropriate or otherwise allowed. We ask for (for the most part): Current zoning information, that the current use is permitted under the current zoning, and that the building complies with all of the matters we need to issue the coverage (setbacks, floor space, parking spaces, etc.). Most jurisdictions will issue something we colloquially refer to as a "zoning letter" that handles all those for us. However, often the zoning letter doesn't specifically identify the allowed uses, which would require further certification from the attorney.

So there you have it. Zoning Endorsements 101. Fun for the whole family.

BONUS: There's one of these for situations where you are developing land, too! ALTA 3.2-06.

DOUBLE BONUS: Our website has some very good resources (recently added) available regarding this and all other ALTA endorsements. Check it out at: <http://northcarolina.ctt.com/articles.asp> under the Endorsements section.

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