

DEPARTMENT OF SAFETY AND PERMITS  
**CITY OF NEW ORLEANS**

MITCHELL J. LANDRIEU  
MAYOR

JARED E. MUNSTER, PH.D.  
DIRECTOR

## DEPARTMENTAL POLICY MEMORANDUM

DATE: March 3, 2017

FROM: Jared E. Munster, Ph.D., Director

RE: Policies and Procedures for Verification of Non-Conforming Uses

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Pursuant to Article 25 of the Comprehensive Zoning Ordinance of the City of New Orleans, as amended, non-conforming uses are contrary to the principles of the Comprehensive Zoning Ordinance; Section 25.3.A of the CZO requires the Department of Safety and Permits to view claims of legal, non-conforming status narrowly and to “have all doubts resolved against the continuation or expansion of non-conformit[ies] in order to preserve the property rights of adjacent property owners.”

In furtherance of this requirement of the CZO, the following policies and procedures shall be followed for all reviews of non-conforming uses. All employees are directed to comply with these policies and procedures prior to the approval or issuance of any permit, license, or zoning verification. The mere act of filing for a determination grants no rights or entitlements relative to the non-conforming status of a property; no right or entitlement is conferred until a determination is made by the Director of Safety and Permits based on the standards provided by Louisiana Revised Statutes, the City’s Comprehensive Zoning Ordinance, and this memorandum.

### Documentation Required

All of the following information and documentation shall be required, as applicable, to determine and verify the legality of non-conforming uses:

- 1) An application for “Determination of Non-Conforming Status” providing a brief description of the determination sought.
- 2) A timeline, to the best of the applicant’s ability, detailing the periods of use and vacancy of the subject property.
- 3) The owner must furnish a notarized affidavit indicating that the property has not been vacant for a period of six (6) months or longer.
  - a. Notarized affidavits from neighbors or other individuals with knowledge of occupancy or operation of the subject property should also be provided to the Department, outlining the use of the property, periods of occupancy and/or vacancy, and any other information relevant to the determination being sought.
- 4) The owner/applicant must provide a current copy (or most recent) occupational license, alcoholic beverage license, mayoralty permit, or other authorization to conduct business, issued by the Bureau of Revenue, for any commercial uses(s) located on the property.
- 5) The owner/applicant must provide current/most recent leases and/or rent receipts for tenants to demonstrate continued occupancy and operation.



- 6) The owner/applicant must provide records from utility companies:
  - a. Entergy: Provide documentation from Entergy indicating electric/natural gas usage for the past 12-months for all meters on the property.
  - b. Sewerage and Water Board: Provide the number of meters, date(s) installed, rate type, sanitation charges, and water usage for the past 12-months for all meters on the property.
- 7) For non-conforming residential and commercial uses, the owner/applicant must provide a floor plan of the building, indicating the use of each room and photographs documenting such uses.
- 8) For non-conforming Bed and Breakfasts or hotels, any records identifying the number of rooms which have been offered for rent.
- 9) For non-conforming parking lots, the owner/applicant must submit a map or survey indicating the boundaries of the property with all improvements (valet/payment shelters, fencing, lighting, signage, and landscaping, etc.) and striping, with dimensions.
- 10) Any other information or documentation which provides additional support for the claim of non-conforming status should be included with the application in addition to the documents requested herein. The list of submissions provided in this document is not meant to be exhaustive; the Department will evaluate any evidence submitted relative to a Determination request.

Providing this information as part of an application for review does not guarantee that the Department will approve or confirm the legality of the non-conformity. Safety and Permits may require additional documentation to supplement the information required above, and the Department will verify the provided information against the City's records relative to the specific property. The Department may request the property to be made available for inspection to verify any claims made or documentation provided in support of a request for determination.

Submitting to the Verification of Legal, Non-Conforming Use process and providing the information outlined herein or any additional information which may be requested does not grant or approve of any non-conforming status nor does it guarantee that the result of such submission will result in positive verification of such status. As provided by the CZO, the burden of proving such status lies with the individual seeking a determination of legal, non-conforming status; it is not the duty of the City of New Orleans to demonstrate that a non-conforming use does not exist or has been lost due to vacancy, discontinuance, abandonment, or any other circumstance.

#### Departmental Review Procedure

The Zoning Administrator is responsible for reviewing all documentation submitted as part of a request for verification of a non-conforming use. No permit, license, or zoning verification which acknowledges or confirms legal, non-conforming status may be issued without the approval of the Director.

In reviewing the documentation submitted by an applicant, the Zoning Administrator is required to prepare a written report summarizing the application received. This report must include, but is not limited to:

- The zoning designation of the subject property
- The history of uses on the site as determined from a review of City records.

- A synopsis and analysis of the documentation submitted with the request for determination, with specific attention to how that documentation relates to the requirements of Article 25, and the CZO as a whole.
- An analysis of the status of the property with respect to State Revised Statutes relative to grandfathering and prescription (RS 9:5625).
- An analysis of any communications or correspondence received from any person other than the applicant.
- An analysis of any communications or correspondence received from any interested parties in opposition to the application.
- The recommendation of the Zoning Administrator, including rationale for the recommendation.

The report shall be provided on a standard Departmental report template. Editable documents should never be publicly available through [onestopapp.nola.gov](http://onestopapp.nola.gov).

### Record Keeping

Upon receipt of an application for Determination of Non-Conforming Status, a Project case shall be created in the Department's permitting and licensing database. All documentation provided with respect to such an application shall be digitized and included in the Project case, pursuant to the Department's policy on Electronic Data Storage and Record Retention.

The final determination of the Director will be scanned and made publicly available through [onestopapp.nola.gov](http://onestopapp.nola.gov), and the status of the Project case will be moved to "Determination of the Director – Complete" in order to activate publication of the determination through the City's NoticeMe public information platform.