



# MEMORANDUM

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**DATE:** January 3, 2008

**TO:** Mayor & Council

**FROM:** Nina Trasoff, Vice Mayor  
Council Member, Ward VI

**SUBJECT:** Certificate of Occupancy Accountability Ordinance

**Background:** The success of small businesses is crucial in Tucson's sales tax-based economy, so it is important for us to foster an environment that is friendly to small business operators. Yet, too often, aspiring small business owners in our community enter into a lease agreement only to learn the space they have chosen is not suitable for their intended use under city regulations.

The time and expense of bringing a rental space up to the City of Tucson's Certificate of Occupancy status can cripple – and sometimes kill – a business before it ever has a chance to succeed.

To address this all-too-common problem, I am proposing an ordinance that would require the owners of commercial rental properties to provide information regarding C of O requirements prior to entering into a lease agreement with tenants.

One possibility is to require property owners to provide a copy of the most current Certificate of Occupancy, a site plan and floor plan to the prospective tenant. Absent these documents, we could require the property owner or manager to advise the prospective tenant to visit the city's Development Services Department to learn of what the requirements would be.

Having such information would allow aspiring small business owners to make informed decisions about where they will operate, giving them a greater chance to succeed. I also believe this disclosure requirement will lead to more commercial buildings attaining C of O status, which gives greater assurance of a safe working environment.

I would like a discussion of this item to be on the Feb. 5 Study Session agenda, at which time city staff will be available to answer any questions.

NJT/cs

**DRAFT**

ADOPTED BY THE  
MAYOR AND COUNCIL

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ORDINANCE NO. \_\_\_\_\_

RELATING TO REAL PROPERTY; REQUIRING COMMERCIAL REAL PROPERTY LESSORS TO MAKE CERTAIN DISCLOSURES RELATING TO OCCUPANCY STATUS AND PERMITTED USES PRIOR TO EXECUTION OF A LEASE AGREEMENT; AMENDING THE TUCSON CODE CHAPTER 16, ARTICLE V BY ADDING A NEW SECTION 16-46.1; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TUCSON, ARIZONA, AS FOLLOWS:

SECTION 1: The Tucson Code Chapter 16, Article V is hereby amended by adding a new Section 16-46.1 to read as follows:

**Section 16-46.1: Requiring Lessors Of Commercial Real Property To Make Certain Disclosures Related To Occupancy Status and Permitted Uses Prior to Execution of a Lease Agreement; Alternative Disclosure Permitted; Penalty.**

(a) It is unlawful for any person to enter into a lease as lessor of any non-residential commercial real property without making the disclosures required by this section.

(b) Except as provided in subsection (c), any lessor of non-residential commercial real property within the city limits of Tucson shall make the following disclosures in writing to the prospective lessee prior to the execution of the lease agreement:

- (1) a statement advising the prospective lessee to contact the City's Development Services Department prior to the execution of the lease agreement to determine the occupancy status for the property to be leased and the lawfulness of the lessee's intended use.

- (2) a statement advising that as part of the inquiry into the occupancy status of the property, the prospective lessee should obtain from the Development Services Department a copy of the most recent approved certificate of occupancy, statement of permitted uses, site plan and/or floor plan of the property to be leased.

(c) In lieu of and as an alternative to the disclosures required under subsection (b), the lessor may satisfy the requirements of this section by providing to the prospective lessee prior to the execution of the lease agreement:

1. A copy of the most recent certificate of occupancy issued by the City for the property to be leased;

2. A statement of the specific use or uses permitted under the certificate of occupancy referenced in subsection 1 above and the uses for which the property has been leased or otherwise occupied while that certificate of occupancy has been in effect; and

3. A copy of the most recent site plan on file with and approved by the City for the property to be leased.

4. A copy of the most recent floor plan on file with and approved by the City for the property to be leased.

(d) As used in this section, the term “non-residential commercial real property” shall mean any real property zoned for or intended to be used primarily for commercial activities. This section shall not apply to a lease of residential real property.

(e) Violation declared civil infraction. Unless otherwise specifically stated in this chapter, any violation of this section is punishable as a civil infraction pursuant to chapter 8 of this Code.

SECTION 2. The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

SECTION 3. If any provisions of this ordinance, or the application thereof to any person or circumstance is invalid, the invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or circumstance, and to this end, the provisions of this ordinance are severable.

SECTION 4. WHEREAS, it is necessary for the preservation of the peace, health, and safety of the City of Tucson that this ordinance become immediately effective, an emergency is hereby declared to exist and this ordinance shall be effective immediately upon its passage and adoption.

PASSED, ADOPTED AND APPROVED BY THE MAYOR AND COUNCIL OF  
THE CITY OF TUCSON, ARIZONA, \_\_\_\_\_.

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MAYOR

ATTEST:

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CITY CLERK