

CofO Disclosure Ordinance

Disclosures to the Lessee Related to the Need to Contact the Development Services Department (DSD) to Obtain Information on the Requirements for Lessee's Intended Use Prior to Execution of a Lease Agreement

Prior to signing the lease, Lessee is given the opportunity to:

- Determine if the use is allowed in the Zoning
- Discover what requirements there may be in order to obtain a CofO
 - Resolve work done without permits
 - Change of use requirements, if any

What is a Certificate of Occupancy for:

- Indicates building is safe for occupancy
- Specifies how many people may occupy the space
- A Permanent CofO certifies that the space meets all applicable codes
 - Note: a CofO does not require that the building be upgraded to meet all current codes

Why are we doing this:

- Finance has adopted a provision of the Model Cities Tax Code that requires a CofO to issue a Business License
- Fire Department is applying for a national certification which requires more inspection of businesses – they always ask to see a CofO
- Neighborhood Resources asks for a CofO when responding to a complaint
- **Tenants not having a valid CofO are then put in a precarious position**

Is this the whole solution? **NO**

4 Legs of a broader solution:	Implementation Date
1. Disclosure Ordinance	May 20 Agenda, effective 30 days after approval
2. Baseline Drawing for Floor Plan and Site Plan – architect not required	In pilot – policy being developed now
3. Provisional CofO – when there is a Path to Compliance	In pilot – requires an ordinance or change in code (in work now)
4. Adaptive Re-Use changes to the Land Use Code	Modify LUC to allow older properties to obtain a CofO

LUC created issues for older properties:

1. Has built in obsolescence for older properties that do not comply with current LUC requirements
2. Forces some property owners and tenants to operate outside the law
 - a. No CofO
 - b. Work without permits for fear of being caught
3. Contributes to the Vacant and Neglected problem
 - a. Attractive nuisance for graffiti
 - b. Urban Blight

PROPOSED ORDINANCE

RELATING TO REAL PROPERTY; AMENDING THE TUCSON CODE CHAPTER 7 BY ADDING A NEW ARTICLE XXIV (NEW SECTIONS 7-500 through 7-504) REQUIRING COMMERCIAL REAL PROPERTY LESSORS TO DISCLOSURE TO THE LESSEE THE NEED TO CONTACT DEVELOPMENT SERVICES DEPARTMENT PRIOR TO EXECUTION OF A LEASE AGREEMENT; AND SETTING AN EFFECTIVE DATE.

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

SECTION 1. The Tucson Code Chapter 7 is hereby amended by adding a new Article XXIV (New Sections 7-500 through 7-504) to read as follows:

ARTICLE XXIV. LESSORS OF COMMERCIAL REAL PROPERTY DISCLOSURE REQUIREMENTS

Sec. 7-500. Requiring Lessors of Non-Residential Commercial Real Property To Disclose to the Lessee the Need to Contact the Development Services Department (DSD) Prior to Execution of a Lease Agreement; Penalty.

Sec. 7-501. Definitions.

As used in this Article, the term “non-residential commercial real property” shall mean any real property zoned for or intended to be used primarily for commercial activities.

Sec. 7-502. Disclosure required.

- (a) It is unlawful for any person to enter as lessor into a lease to which the Article applies without making the disclosures required by this section.
- (b) Any lessor under a lease to which this Article applies must make the following disclosure to the prospective lessee prior to the execution of the lease agreement. A statement advising the prospective lessee to contact

the City's Development Services Department (DSD) prior to the execution of the lease agreement to determine whether the property may be occupied for lessee's intended use.

(c) Acknowledgement of the disclosure must be signed by the lessor or lessor's agent and the lessee and retained by the lessor or lessor's agent for the duration of the lease.

Sec. 7-503. Exemptions.

(a) This Article shall not apply to the following:

1. a lease of residential real property;
2. a lease pursuant to which the lessor performs the construction work for lessee's initial occupancy;
3. a lease of a self-service storage facility, which is defined as any real property used for renting or leasing individual storage spaces in which the occupants themselves customarily store and remove their own personal property on a self-service basis; or
4. a lease for a portion of space within a building where the building already has a Certificate of Occupancy and the leased space is for a use identical to the Certificate of Occupancy issued for the building.

Sec. 7-504. *Violation declared a 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. This ordinance shall be effective thirty (30) days upon its passage and adoption.

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

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

REVIEWED BY:

CITY ATTORNEY

CITY MANAGER

VRW
5/15/2008 3:15 PM