

INTRODUCTORY LOCAL LAW NO. 3 OF 2019

**A LOCAL LAW ADDING CHAPTER 46 ENTITLED “ENTITY DISCLOSURE”
TO THE TOWN CODE OF THE TOWN OF CHESTER**

Be it enacted by the Town of Chester in the County of Orange, as follows:

Section 1. Title

This Local Law shall be referred to as "A Local Law Adding Chapter 46, Entitled "Entity Disclosure", to the Town Code of the Town of Chester.

Section 2. Legislative Intent

The Town Board of the Town of Chester has determined that it is in the best interest of the Town of the Chester and the public to provide for full and fair disclosure of all entities making land use applications within the limits of the Town of Chester. It is the intention of the Town Board of the Town of Chester, with respect to entity disclosure, to ensure that any and all potential conflicts of interest or ethical concerns are properly disclosed and addressed, which shall further secure and promote the public health, comfort, convenience, safety, welfare, prosperity and peace and quiet of the Town of Chester and its residents.

Section 3. Entity Disclosure

Chapter 46, entitled “Entity Disclosure” is hereby added to the Town Code of the Town of Chester, to read as follows:

§46-1. Title.

This Chapter shall be cited and may be referred to hereinafter as the, “Entity Disclosure Law of the Town of Chester.”

§46-2. Legislative Intent.

- A. The Town Board finds that, in connection with the development or potential development of portions of the Town of Chester, land use applications may have a significant impact upon the health, safety and general welfare of the Town, its inhabitants and visitors, and upon existing uses, public services, traffic and the environment, in general.

- B. The Town Board further finds that under such circumstances, the Town Board is required to ensure that anyone with any interest or controlling position of any Entity applying for any land use approval or permission from the Town must have no conflict of interest, as that term is defined in the New York Town Law and New York General Municipal Law, and that the disclosure of any Non-Disclosed Person is required to be made in any land use application or request for any approval from the Town to be certain no conflict of interest exists and without the disclosure of that Non-Disclosed Person a meaningful review of any conflict cannot take place.

§46-3. Definitions.

As used in this Chapter, the following terms shall have the meanings indicated:

AUTHORIZED PERSON

A person, whether or not a Non-Disclosed Person, who is authorized to act or otherwise acts solely or in conjunction with others on behalf of an Entity to direct, influence or otherwise control the Entity in any manner.

ENTITY

A limited liability company, whether domestic or foreign.

NON-DISCLOSED PERSON

Any member, shareholder, director, officer, beneficial owner or Authorized Person of the Entity.

§46-4. Disclosure Requirement.

- A. Every Non-Disclosed Person for any Entity applying for land use approvals or permission to undertake any construction activity within the Town of Chester shall complete an Entity Disclosure Statement in the form approved of from time to time by resolution of the Town Board of the Town of Chester, and shall provide all information required in said form. The Entity Disclosure Statement shall be affirmed or sworn under the penalty of perjury and shall be filed along with any such land use application or request or permission to undertake any construction activity within the Town.
- B. In the event that a land use project that has previously received approval is sold, assigned or otherwise transferred, whether by transfer of the property or transfer of the management or operation or both of the Entity and another Entity, the transferring Entity shall notify the Town in writing, and any such succeeding Entity must fully comply with this Chapter before any work or other activity on the project shall be permitted to proceed, continue or be completed.

- C. Said Entity Disclosure Statement shall apply to any land use approvals or permission sought from the Building Department, Town Board, Planning Board and Zoning Board of Appeals. The Building Department, Town Board, Planning Board and Zoning Board of Appeals shall not process, hear, re-hear, approve or sign any new or pending preliminary or final site plan, preliminary or final subdivision, special permit, variance or other land use application or permit which related directly or indirectly to any construction activity, including but not limited to any grading permit, erosion and sediment control permit, wetland permit, sewer connection permit, floodplain development permit, water connection permit, which may be granted in association with any construction unless the application includes a fully completed Entity Disclosure Statement signed and either sworn to or affirmed and submitted with said application to the respective Board.

§46-5. Exemptions.

An Entity Disclosure Statement shall not be required for any of the following activities:

- A. Construction of a private garage, not in excess of 500 square feet. Said building shall not be used for any other purpose than the storage of automotive vehicles;
- B. Construction of accessory structures, other than garages, not in excess of 300 square feet;
- C. Construction of outdoor decks, sidewalks or porches;
- D. Construction of outdoor swimming pools;
- E. Installation of fences;
- F. Interior or exterior remodeling of a single-family detached residential dwelling already in existence and with a valid certificate of occupancy as of the effective date of this chapter, which does not involve any change in the use or increase in size of the building, which shall include, but is not limited to, window replacement, door replacement, plumbing improvements, new siding, removal or interior walls and similar improvements;
- G. Installation or removal of home heating oil or propane tanks, in accordance with all applicable laws;
- H. Repair, involving the removal and installation of an individual well or in-ground septic system, for a dwelling already in existence and with a valid certificate of occupancy as of the effective date of this chapter;
- I. Construction of a private shed not exceeding 300 square feet; or
- J. Other minor improvements to dwellings or residential lots with an existing certificate of occupancy, after the Building Inspector has conferred with the Town Board and the Town Board has rendered a determination that the improvement falls within the scope and nature of the exemptions listed herein.

§46-6. Penalties for Offenses.

- A. Where an Entity or its representative(s) refuses or otherwise fails to provide the information required under this chapter, the further processing of such application and any work related thereto shall be suspended in all respects, until such time as the board or official before which application is submitted or pending determines that the Entity has fully complied with all provisions of this chapter.
- B. In the event of any form of transfer of the property that is the subject of the application occurs, or the ownership or management or both of the project is transferred in any manner to another Entity during a pending suspension of the application under this section, the application shall remain suspended until such time as the succeeding Entity shall appear before such board or official before whom the application is pending and obtain approval for any continued work in relation to the application in addition to compliance with this chapter. The Building Inspector is authorized to and shall issue a stop-work order on any project where an application has been suspended under this section.
- C. Any Entity or Authorized Person or representative of any Entity that provides no information or false information or grossly inaccurate information or otherwise makes any misrepresentation in any application shall, in addition to the suspension of any pending application previously set forth above, be subject to a civil penalty of not more than \$3,000.00 per offense. The Building Inspector or Code Enforcement Officer is hereby authorized to issue an appearance ticket or other process for any violations of this chapter.
- D. Nothing herein shall be deemed to preclude a criminal proceeding being instituted by the people of the State of New York against any Entity or any of its representatives in the Justice Court or County Court for any offenses where the conduct committed may constitute a violation of the New York State Penal law or other criminal statutes.
- E. In addition to those penalties prescribed herein and by state law, any person or Entity who violates any provision of this chapter shall be liable for all reasonable attorneys' fees, costs and disbursements incurred by the Town to recover this civil penalty in any legal action instituted in the name of the Town. In any such proceeding to collect a civil penalty or enforcement action, the Town shall be entitled to collect interest, costs and disbursements incurred in connection with such proceeding and in addition to reasonable counsel fees or a charge to reimburse the Town for expenditures for appraisers, accountants or other consultants employed by the Town.

§46-7. Application of Law.

This chapter shall apply to all land use applications to and/or before the Building Inspector, Town Board, Planning Board or Zoning Board of Appeals pending at the date of the enactment of this chapter. This legislative action by the Town Board is being adopted by local law, using Municipal Home Rule Procedures.

§46-8. State Environmental Quality Review Act.

Pursuant to 6 NYCRR 617.5(20) and 6 NYCRR 617.5(27), this chapter is classified as a Type II Action, which requires no further review under the State Environmental Quality Review Act.

Section 4. Severability.

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5. Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State.