

# BENEFICIAL LANDOWNER TRANSPARENCY MODEL ORDINANCE

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# Beneficial Landowner Transparency Model Ordinance

## ..Title

**AN ORDINANCE AMENDING TITLE XVIII, HOUSING CODE, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, BY CREATING CHAPTER 18:18, LLC PUBLIC DISCLOSURE TO REQUIRE LIMITED LIABILITY CORPORATIONS SELLING AND BUYING 1- TO 4-DWELLING UNIT RESIDENCES RECORD BENEFICIAL OWNERSHIP INFORMATION WITH DEED OR TRANSFER OF TITLE.**

## ..body

**WHEREAS**, the City of Newark desires to protect the public health, safety, and welfare of the citizens of the City of Newark and maintain a high quality of life for the citizens of the City through the maintenance of structures and properties in the City; and

**WHEREAS**, the City finds that the proximity to other high-cost areas and the pending development throughout the City, along with future projects in the City, have the potential to attract increased investment and development in the community, creating increases in housing costs, loss of housing affordability and displacement of low and moderate income residents; and

**WHEREAS**, a Newark housing study conducted by the Center for Law, Inequality, and Metropolitan Equity at Rutgers Law School - "Who Owns Newark - Transferring Wealth from Newark Homeowners to Corporate Buyers" (the "Report") found that 79% of Newark residents are renters, an unusually high rate, and that 45% of residents live in small apartment buildings of two (2) to four (4) units; and

**WHEREAS**, accelerating in 2013 in the wake of the Great Recession and foreclosure crisis, purchases of single family (one to four units) residential properties in Newark by limited liability companies, often backed by largescale equity investment, has caused rents to rise and owner-occupancy to fall, according to the Report; and

**WHEREAS**, according to the Report, 47% of properties in the City of Newark were sold to institutional investor buyers from 2017-2020, and from 2017 through 2019, only 36% of residential sales transactions were to individual buyers with a Newark mailing address; and

**WHEREAS**, the rapid purchasing of smaller residential properties by institutional investors increases the ratio of renters over owners in neighborhoods of smaller homes, and increases the likelihood of higher rents, which in turn price out traditional homebuyers; and

**WHEREAS**, corporate buying activity in Newark neighborhoods is particularly detrimental given that:

- a) the rate and amount of corporate buying is greater than the national average,
- b) the affordability gap is greater than most other cities,



- c) the local homeownership rate was already lower than average,
- d) the neighborhoods most affected by this activity have historically been the target of predatory corporate real estate practices, and
- e) the convergence of these factors reduces homeownership opportunities, leaving neighborhoods to struggle to maintain cohesion, public safety and sustainable social networks along with the institutions they nurture; and

**WHEREAS**, the Report recommends that in order for Newark to maintain affordable rents and homeownership, the City should impose equitable constraints on real estate markets to promote the general welfare of households and individuals; and

**WHEREAS**, according to the Report, nearly three-quarters of all institutional purchases in Newark are in the South and West Wards in predominantly Black neighborhoods, where the share of residents who are extremely cost burdened is higher than anywhere else in the city, and where homeownership declined between 6-7% between 2010 and 2020; and

**WHEREAS**, the City finds that housing insecurity and displacement exacerbate historic patterns of racial and economic segregation, deepen concentrations of poverty and wealth, and widen disparities in access to good schools, jobs, healthcare and other amenities; and

**WHEREAS**, property records and ownership have been historically transparent in America for the good of the public, but, as evidenced by residential property transactions outlined in the Report, LLCs manipulate their ownership structure to keep their investors' identities concealed from public scrutiny; and

**WHEREAS**, the Report finds that these largely anonymous outside companies set neighborhood housing market prices on terms that aim to produce stable returns to their investors, who thus are profiting from business activity in areas in which most American neighborhoods promote homeownership, a sense of community cohesion and household wealth; and

**WHEREAS**, the City recognizes that, in a city that is 79% renters, coordinating activities as appropriate to promote equity and fairness in the landlord-tenant power dynamic—where renters are subject to much higher levels of personal and financial transparency and scrutiny, and have more at stake when a dispute arises, than the legal entities operating as their landlords—is a measure to preserve the welfare of the municipality and its inhabitants; and

**WHEREAS**, pursuant to N.J.S.A 40:48-2, the City of Newark is authorized to make, amend, repeal and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality

and its inhabitants; and

**WHEREAS**, pursuant to N.J.S.A 40A:61-5, the Newark City Council may pass, adopt, amend and repeal any ordinance for any purpose required for the government of the municipality or for the accomplishment of any public purpose for which the municipality is authorized to act under general law; and

**WHEREAS**, through public transparency measures, it is the intent of the Newark City Council to discourage corporate real estate investors from:

- a) denying working class families and first-time homebuyers the option to buy homes,
- b) unnecessarily inflating rental prices and gouging tenants with high and unnecessary fees,
- c) employing abusive practices by acquiring available homes, raising rents, evicting tenants, and operating rental units with habitability issues, and
- d) hiding behind limited liability corporations and similarly opaque legal structures.

**NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

**Section 1:** The foregoing whereas clause is incorporated herein by reference and made a part hereof.

**Section 2: Title XVIII, Housing Code, is amended to add the following new chapter entitled LLC Public Disclosure requiring any and all Limited Liability Corporations to record beneficial ownership information document with a deed or transfer of title with the Essex County Register of Deeds and Mortgages when buying and/or selling 1- to 4-dwelling unit residences.**

**18:18 LLC PUBLIC DISCLOSURE.**

**18:18-1 Definitions.**

“Residential Property” shall mean any real property and the improvements, buildings, structures or house thereon, within the City of Newark, whether single or multi-family, used for residential purposes.

“Grantee” shall include every person and/or legal entity to whom an estate or interest in real property passes, in or by a deed.

“Grantor” shall include every person and/or legal entity from or by whom an estate or interest in real property passes, in or by a deed.



“Beneficial Owner” shall mean a natural person who, directly or indirectly,  
(A) holds a membership interest in a limited liability company,  
(B) exercises substantial control over the decisions of a membership interest in a limited liability company, or  
(C) has been assigned membership interest in a 10% or more of the equity interests of the limited liability company.

The term “Beneficial Owner” shall *not* include:

- (A) a minor child;
- (B) a person acting as a nominee, intermediary, custodian, or agent on behalf of another person;
- (C) a person acting solely as an employee of a limited liability company and whose control over or economic benefits from the limited liability company derives solely from the employment status of the person;
- (D) a person whose only interest in a limited liability company is through a right of inheritance, unless the person also meets the requirements of the above paragraph of this definition;
- (E) a creditor of a limited liability company, unless the creditor also meets the requirements of the above paragraph of this definition;
- (F) any natural person whose membership interest in a limited liability company derives solely from his or her employment by such limited liability company, and such limited liability company’s organization as an employee-owned business or worker cooperative, as evidenced by such limited liability company’s by-laws or articles of organization.

“Legal Entity” shall mean a corporation, limited liability company, partnership or other similar business entity, whether formed under the laws of the State of New Jersey, or of the United States, or a foreign jurisdiction.

"Deed" shall be any document or writing, executed or delivered, whereby any real property or interest therein is created, vested, granted, bargained, sold, transferred, assigned or otherwise conveyed, including any such document or writing whereby any leasehold interest in real property is granted, assigned or surrendered.

“Certificate Of Habitability” shall be the certificate issued by EHD or Designee attesting that the rental unit is in compliance with all State and Local Laws and regulations including, but not limited to, the City’s Zoning and Land Use Regulations Ordinance, Health Laws and Regulations, Property Maintenance Code, Uniform Construction Code, Housing Code, Building Code and/or Uniform Fire Safety Act.

“REIT” shall be an acronym for Real Estate Investment Trust, a company that invests in income-generating real estate and is held by shareholders, who receive dividends from the various diversified real estate asset holdings and investments that the company makes

without the need to invest in particular real estate assets. “UPREIT” shall refer to an Umbrella Partnership REIT,

## **18:18-2 Requirements of Limited Liability Company Disclosure; Exemptions.**

### **18:18-2.1 Required Information from LLC**

- a. Effective **DATE**, when the grantor or grantee of a deed or transfer of title of residential property in the City of Newark containing one- to four- units is a limited liability company, the deed or title transfer or conveyance delivered and/or recorded must be accompanied by the recording of a disclosure document (“LLC Disclosure Form”) with the Essex County Register of Deeds and Mortgages and in compliance with N.J. Stat. § 46:26A-3, identifying the full legal names, business addresses, and email addresses or telephone numbers of all members, managers, beneficial owners, and any other authorized persons, if any, of such limited liability company.
- b. If any such member, manager, beneficial owner or authorized person of the limited liability company is itself a legal entity, the full legal names, business addresses, and email addresses or telephone numbers of the shareholders, directors, officers, members, managers, partners, and beneficial owners of the legal entity shall also be disclosed. This section shall apply until full disclosure of ultimate ownership by natural persons is achieved.
- c. Beneficial owners shall identify each and every entity or person linking such beneficial owner to the limited liability company, including by identifying every intermediary by name and explaining the nature of the legal or economic relationship of the beneficial owner to every other intermediary and to the limited liability company. The beneficial owner may be permitted or required to provide a diagram or organizational chart to meet this disclosure requirement.
- d. If indirect beneficial ownership is exercised through a publicly traded entity, a REIT, a UPREIT, or a mutual fund, the requirements of this paragraph shall only apply to beneficial owners holding or controlling 10% or more of the equity in such limited liability company.
- e. The LLC Disclosure Form shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the City against the owner or owners of the building.



## **18:18-2.2 Exemptions**

**a.** The Deputy Mayor/Director of Economic and Housing Development, through regulations, shall establish procedures to allow beneficial owners of limited liability companies who cite significant privacy interests to apply for a waiver to withhold the name and/or business address associated with a beneficial owner. Significant privacy interests shall include, but will not be limited to, where a beneficial owner is a natural person participating in an address confidentiality program.

**b.** The Deputy Mayor/Director of Economic and Housing Development shall issue a waiver to a beneficial owner upon a demonstration that a significant privacy interest exists and shall provide guidance on its website indicating what documentation is acceptable as proof for issuance of a waiver.

## **18:18-3 Enforcement; Retroactive Application**

### **18:18-3.1 Proof of Disclosure Required to Pass Housing Inspections**

**a.** The grantor and/or grantee of any residential property that is subject to this Ordinance must execute and deliver a fully executed copy of an LLC Disclosure Form and/or any amendments thereto, at the time of application for a Certification of Occupancy (CO) and/or a Certificate of Code Compliance (CCC). The LLC Disclosure Form and any amendments thereto must be recorded in compliance with N.J. Stat. § 46:26A-3 in the property records of Essex County Register of Deeds and Mortgages. The grantor and/or grantee of the Property shall not receive a Certification of Occupancy (CO) and/or a Certificate of Code Compliance (CCC) until the appropriate Newark city official, the Director of the Department of Engineering, has received a fully executed copy of the LLC Disclosure Form.

**b.** This will take effect beginning **MONTH, 202\_**.

### **18:18-3.2 Disclosure Recording For Properties Not Currently For Sale**

**a.** All current landlords and vacant property owners of one- to four- unit residential properties in the City of Newark shall provide a fully executed copy of the LLC Disclosure Form to the Newark Department of Economic and Housing Development in their **202\_** landlord and/or vacant property registration application in order for a Certificate of Habitability to be issued and registration to be renewed.

b. This ordinance supplements Newark Municipal Codes 18:17 et seq. and 2:10-1.4 et seq. for one year to add one additional required document.

c. Accordingly, per Newark Municipal Code § 2:10-1.4E.9, the City of Newark may contract with and set the compensation of a private entity to assist the municipality in the implementation and administration of the property registration program AND a one-time confirmation of LLC Disclosure Recordation.

**Section 3: SAMPLE DISCLOSURE FORM**

FULL LEGAL NAME	BUSINESS ADDRESS	TELEPHONE OR EMAIL	NATURE OF OWNERSHIP

LLC Disclosure Forms may also include organizational charts and informational attachments to clarify chains of ownership through natural persons and other legal entities.

**Section 4:** Any prior ordinances or parts thereof inconsistent herewith are hereby repealed.

**Section 5:** If any part of this Ordinance is declared unconstitutional or illegal, the remaining provisions shall continue in full force and effect.

**Section 6:** This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

**STATEMENT**

*This Ordinance amends Title 2, Administration, Chapter 10, Department of Economic and Housing Development, to add a disclosure requirement for all LLCs buying and selling 1 to 4 unit residences in the City of Newark and to collect beneficial ownership information through an new required form to be submitted when recording a deed or transfer of title.*

