

NOTICE OF ENACTMENT

PLEASE TAKE NOTICE that after a public hearing held pursuant to the requirements of law on October 19, 2023 and at a meeting held by the Town board of the Town of East Hampton, New York on November 2, 2023, the following Local Law was adopted:

LOCAL LAW NO. 27 OF 2023

INTRODUCTORY NO. 34 OF 2023

SECTION I. Town Code Amended.

A. Chapter 102 (Building Construction), Article I (Building Construction) is amended as follows:

1. Section 102-1 "Purpose and intent" is amended to read in its entirety as follows:

A. This local law provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code ("Uniform Code") and the State Energy Conservation Construction Code ("Energy Code") in the Town of East Hampton. This local law is adopted pursuant to Section 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, other state law, or other section of this local law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions of this local law.

B. The NYStretch Energy Code-2020 supplement to the Energy Conservation Construction Code of New York State-2020, (hereafter referred to as "NYStretch") published by the New York State Energy Research and Development Authority (hereafter referred to as "NYSERDA"), shall be effective for all building permit applications (applicable to new construction, substantial reconstruction, alterations, and additions) submitted on or after January 1, 2023 in the Town of East Hampton unless superseded by more restrictive provisions adopted herein by New York State, except that Section R403.6.2 of the NYStretch Code Shall be severed from this local law and not be applicable.

3. Section 102-24 "East Hampton Town Energy Savings Program" is amended to read in its entirety as follows:

A. The NYStretch Energy Code-2020 supplement to the Energy Conservation Construction Code of New York State-2020, (hereafter referred to as "NYStretch") published by the New York State Energy Research and Development Authority (hereafter referred to as "NYSERDA"), shall be effective for all building permit applications (applicable to new construction, substantial reconstruction, alterations, and additions) submitted on or after January 1, 2023 in the Town of East Hampton unless superseded by more restrictive provisions adopted herein by New York State except that Section R403.6.2 of the NYStretch Code shall be severed from this local law and not be applicable.

B. Any newly built or substantially reconstructed subject dwelling detached one- or two- family dwelling shall be rated by an independent, Residential Energy Services Network (RESNET)-certified home energy rating system (HERS) rater, following the protocol set out by RESNET, including all required reviews, inspections, and diagnostic tests, including combustion safety tests. The HERS rater must attest that the home was rated to the HERS index prescribed below, passed all combustion safety tests, and complies with all requirements of Section R406 of the ECCNYS 2020 as amended by NYStretch prior to the issuance of a certificate of occupancy.

(1) (a) Detached one- or two-family dwellings up to 3,000 square feet Gross Floor Area ("GFA") shall meet the requirements of the Prescriptive Path, or achieve an Energy Rating Index ("ERI") of 50 or less and comply with all requirements of Section R406 of the ECCNYS 2020 as amended NYStretch.

(b) Detached one- or two-family dwellings with 3,001 to 4,500 square feet Gross Floor Area ("GFA") shall achieve an Energy Rating Index ("ERI") of 50 or less and comply with all requirements of Section R406 of the ECCCNY 2020 as amended NYStretch.

(c) Detached one- or two-family dwellings with over 4,500 square feet Gross Floor Area ("GFA") shall achieve an Energy Rating Index ("ERI") of 31 or less and comply with all requirements of Section R406 of the ECCCNY 2020 as amended by NYStretch 2020.

(2) Notwithstanding the requirements set forth in (a) through (c) of Paragraph (1) above, substantially reconstructed dwellings shall be exempt from the requirements of Section R406 of the ECCCNY 2020 and shall instead comply with Chapter 5 of the ECCCNY 2020.

C. For the sole purpose of identifying with which of the requirements of Subsection B a subject dwelling must comply, the Gross Floor Area (GFA) as defined by FLOOR AREA, GROSS in Section 255-1-20 of the East Hampton Town Code will be used. GFA does not supersede the methodology of current RESNET protocol, but serves only to trigger the compliance tier required of a newly built or substantially reconstructed subject dwelling.

D. New multifamily buildings shall also be in compliance with the provisions of this Code, unless the Principal and/or Chief Building Inspector has determined otherwise based upon a formal written request of the property owner. Upon receipt of a formal written request, the Principal and/or Chief Building Inspector shall determine whether the relief from strict compliance to the standards enumerated in Subsection B above is justified. In making a determination as to whether practical difficulties justify a waiver from strict compliance to the standards set forth in this Code, the Principal and/or Chief Building Inspector shall consider the following factors:

- the location and condition of any existing structure or structures,
- the size of the lot, the topography of the lot,
- the existence and extent of clearing restrictions on the property,
- the proximity of trees and shade on the lot, lot coverage restrictions on the property and
- such other and further factors or conditions that exist at the property that may impact strict compliance with the standards enumerated in Subsection B above.

If the Principal and/or Chief Building Inspector determines that a waiver is appropriate, the property owner shall provide a practicable plan for alternative methods of energy conservation conducive for the location or make a showing that there are no practicable energy conservation systems conducive to the location. Upon receipt of the property owner's plan, the Principal and/or Chief Building inspector shall grant a waiver, in writing, from the requirements of this section, conditioned upon the implementation of the alternative methods proposed by the owner or such other practicable conditions as required by the Principal and/or Chief Building Inspector. This downgraded home energy rating application is to the Town for a waiver of the Town's requirements only. Receipt of an approved waiver from the Town does not constitute a waiver of the requirements of the State of New York. A separate application will be required to be made by the owner directly to the State of New York if the State standard is not being met.

E. Commercial buildings may also comply with Appendices CB (Rated R-Value of Insulation - Commercial) of NYStretch when applicable, and must comply with Appendix CC (Additional Power Distribution System Packages) of NYStretch when applicable.

F. Additions and alterations that are not deemed substantial reconstruction to residential and commercial buildings shall comply with Chapter 5 of the ECCCNY 2020 as modified by NYStretch. Compliance of additions and alterations to residential buildings shall be documented and verified by an independent, Residential Energy Services Network (RESNET)-certified home energy rating system (HERS) rater.

G. The owner of a structure may apply for a waiver from the requirements of NYStretch for an application for construction, repair, alteration restoration and movement of structures, and change of occupancy on the basis that the structure is of historic significance. In support of the waiver, a report must be submitted to the designated code official, signed by the owner, a registered design professional, or a

representative of the State Historic Preservation Office or the historic preservation authority having jurisdiction, demonstrating that compliance with that provision would threaten, degrade or destroy the historic form, fabric or function of the building.

H. The owner of a structure or proposed structure may apply for a downgraded home energy rating requirement by written application to the Principal and/or Chief Building Inspector on the basis that there exists practicable difficulties specific to the site, construction or design elements encountered in the course of design or construction. Upon receipt of the written request, the Principal and/or Chief Building Inspector shall determine whether there is a showing of need for relief from strict compliance to the standards enumerated in Subsection B above. In determining the conduciveness of a property and practicable difficulties, the Principal and/or Chief Building Inspector shall consider the following factors:

- the location and condition of any existing structure or structures, the size of the lot,
- the topography of the lot,
- the existence and extent of clearing restrictions on the property,
- the proximity of trees and shade on the lot, lot coverage restrictions on the property and
- such other and further factors or conditions that exist at the property that may impact strict compliance with the standards enumerated in Subsection B above.

If the Principal and/or Chief Building Inspector determines that a waiver is appropriate, the property owner shall provide a practicable plan for alternative methods of energy conservation conducive for the location or make a showing that there are no practicable energy conservation systems conducive to the location.

Upon receipt of the property owner's plan, the Principal and/or Chief Building inspector shall grant a waiver, in writing, from the requirements of this section, conditioned upon the implementation of the alternative methods proposed by the owner or such other practicable conditions as required by the Principal and/or Chief Building Inspector. This downgraded home energy rating application is to the Town for a waiver of the Town's requirements only. Receipt of an approved waiver from the Town does not constitute a waiver of the requirements of the State of New York. A separate application will be required to be made by the owner directly to the State of New York if the State standard is not being met.

Section II - Effective Date: This local law shall take effect upon filing with the Office of the Secretary of State as required by law.

