



# Building Standards and Codes

New York State  
Department of State  
Division of Building Standards  
and Codes  
One Commerce Plaza  
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Albany, NY 12231-0001  
Phone: (518) 474-4073  
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www.dos.ny.gov

## Filing to the State Fire Prevention & Building Code Council of More Stringent Local Energy Conservation Construction Code (Energy Code – Energy Law § 11-109)

### INSTRUCTIONS TO FILER:

Complete this form to file a more stringent local energy conservation construction code than the State Energy Conservation Construction Code ("Energy Code") with the State Fire Prevention & Building Code Council ("Code Council") pursuant to Energy Law §11-109.

Please note that if the filing is submitted within thirty (30) days of the promulgation or adoption of the local code or amendments or revision thereof, then the Municipality may enforce such local code, amendment, or revision until and unless the Code Council determines that such local code, amendment, or revision is not more restrictive than the Energy Code. **If the filing is not submitted within such thirty (30) day time period, then the Municipality may not enforce such local code, amendment, or revision until and unless the Code Council determines that such local code, amendment, or revision is more restrictive than the Energy Code.<sup>1</sup>**

### MUNICIPALITY INFORMATION:

This Filing relates to a local energy conservation construction code, or any amendment or revision thereof, promulgated or adopted by the following Municipality<sup>2</sup>: Town of Southampton

### FILER INFORMATION:

This Filing is submitted by the Filer named below (the "Filer"):

- Filer is the Chief Executive Officer of the Municipality.
- The Municipality has no Chief Executive Officer. Filer is the Chairperson of the Legislative Body of the Municipality.
- Other (specify): \_\_\_\_\_

Name of Filer: Jay Schneiderman

Title of Filer:  Mayor  Supervisor  Chairperson of Legislative Body  
 Other (specify) \_\_\_\_\_

Address: 116 Hampton Road, Southampton, 11968, NY

Telephone Number: (631) 702-1868 Fax Number: ( ) - Email Address: jschneiderman@southamptontownny.gov

<sup>1</sup> See Energy Law §11-109(2).

<sup>2</sup> A "municipality" is a county, city, town, village, school district, or district corporation. See Energy Law §11-102(12).

**LOCAL ENERGY CONSERVATION CONSTRUCTION CODE INFORMATION:**

This Filing relates to the Municipality's local energy conservation construction code, or any amendments or revisions thereof, entitled: Notice of Adoption to Amend Chapter 123 (Building Construction) Article V (Energy Cons.

A true and complete copy of the local energy conservation construction code, or any amendments or revisions thereof, is included herewith and labeled **Exhibit A.**

Date of promulgation or adoption of the Municipality's local energy conservation construction code, or any amendments or revisions thereof: December 14th 2021

**ADDITIONAL DOCUMENTATION:**

List here any additional documentation. The Department of State strongly recommends that the Municipality provide a detailed description of (1) the local energy conservation construction code promulgated or adopted by the Municipality, or any amendments or revisions thereof; (2) the corresponding provisions imposed by the Energy Code; and (3) the reasons why the Municipality believes the provisions of the local energy conservation construction code promulgated or adopted by the Municipality, or any amendments or revisions thereof, are higher or more restrictive than the Energy Code. However, do not fail to file a copy of the local energy conservation construction code, or any amendment or revision thereof, within thirty (30) days after promulgation or adoption of such local energy code, or any amendment or revision thereof.<sup>3</sup>

**Exhibit B** Support Documentation (document name)  
**Exhibit C** \_\_\_\_\_ (document name)  
**Exhibit D** \_\_\_\_\_ (document name)

Dated: 12/15/2021



Signature of Filer

Jay Schweideman, Supervisor  
Print or Type Name and Title of Filer

**Please submit this Filing form, all exhibits, and any additional documentation to:**

Assistant Director for Code Development  
NYS Department of State, Division of Building Standards and Codes  
99 Washington Ave., Suite 1160  
Albany, New York 12231

Or by email to: **Dos.sm.codes.codedevelopment@dos.ny.gov.**

When submitting petitions via email, type "**Local Energy Code:**" in the subject line followed by the name of the Municipality and the Local Law # or Ordinance #. (Example: **Local Energy Code: Town of Anywhere, Local Law #6 of 2017.** **Electronic submissions are strongly encouraged.**

If you have questions concerning submission requirements, please call the Code Development Unit at (518) 474-4073, option 3, e-mail at **Dos.sm.codes.codedevelopment@dos.ny.gov** or fax at (518) 486-4487.

<sup>3</sup> Please consult with the Municipality's attorney when submitting a Filing more than thirty (30) days after promulgation or adoption of the local energy conservation construction code, or any amendment or revision thereof.



**Southampton Town Board**

116 Hampton Road  
Southampton, NY 11968

Meeting: 12/14/21 01:00 PM

Department: Long Range Planning

Category: Local Laws

Prepared By: Michelangelo Lieberman

Initiator: Janice Scherer

Sponsors: Councilman Bouvier, Councilman Martel

DOC ID: 38957

**ADOPTED**

**TOWN BOARD RESOLUTION 2021-1182**

**Notice of Adoption to Amend Chapter 123 (Building Construction) Article V (Energy Conservation) to Modify the HERS Rating Standards and Incorporate NYStretch Energy Code-2020 into the Town Code**

WHEREAS, the Town Board has considered amending Chapter 123 (Building Construction) Article V (Energy Conservation) in connection with NYStretch Energy Code-2020; and

WHEREAS, NYStretch is a model stretch code that is 10 to 12% more efficient than the minimum requirements of the 2020 Energy Conservation Construction Code of New York State (2020 ECCCNY); and

WHEREAS, the Town Board held public hearings, via video conferencing, on the subject amendments on November 23, 2021, as well as December 14, 2021, and closed said hearing; and

WHEREAS, the amendments to Chapter 123 (Building Construction) Article V (Energy Conservation) to adopt the NYStretch Energy Code-2020 were largely supported by stakeholders and the community; and

WHEREAS, throughout the public process the legislation was refined, as reflected herein; and

WHEREAS, the Department of Land Management has advised that this proposed Local Law is classified as an "Unlisted Action" pursuant to New York State Environmental Quality Review Act (SEQRA) 6 NYCRR Part 617; and Southampton Town Code Chapter 157 (Environmental Quality Review); and;

WHEREAS, the Town Board has reviewed the information contained in the Environmental Assessment Forms prepared by the Department of Land Management and the magnitude and importance of potential impacts have been considered; and

WHEREAS, there being no involved agencies, other than the Town Board; now therefore be it

RESOLVED, that the Town Board hereby assumes Lead Agency status and finds that the proposed action will result in no significant adverse impacts on the environment and therefore an environmental impact statement need not be prepared, and hereby issues a NEGATIVE DECLARATION pursuant to the New York State Environmental Quality Review Act (SEQRA) 6 NYCRR Part 617.7 and Chapter 157-7 of the Town Code; and be it further

RESOLVED, that Local Law No. 25 of 2021 is hereby adopted as follows:

LOCAL LAW NO. 25 of 2021

A LOCAL LAW amending Chapter 123 (Building Construction) Article V (Energy

Conservation) of the Code of the Town of Southampton to modify the HERS Rating Standards and adopt NYStretch Energy Code-2020 as a component of the Town's Energy Conservation Code.

BE IT ENACTED by the Town Board of the Town of Southampton as follows:

**SECTION 1. Legislative Intent.**

Beginning with the 1970 Master Plan, the Town Board of the Town of Southampton has taken a proactive leadership role in enacting legislation and programs that promote sustainability, environmental protection, and energy conservation. In recent years, the Town has made considerable strides in its efforts to meet Town Energy and Carbon neutrality goals.

This long standing precedent of stewardship and forward thinking has pushed the Town to the forefront as a model of sustainability in the State of New York. Such environmental protection and sustainable agendas have continued through subsequent adopted plans, specifically the Town of Southampton Sustainability 400+ Plan.

A guiding principal within the Sustainability Plan is to create "*healthy and resilient communities and natural systems*" that call for the Town "*to reduce fossil fuel consumption.*" Specifically, goals set forth within the Sustainability Plan seek to "*become carbon neutral through a combination of conservation, efficiency and alternative energy sources.*" Such goals meet "*triple bottom line standards*" addressing economic, environmental and social values:

"Economics: Southampton is located in one of the most expensive energy markets in the country and accordingly it is fiscally prudent to minimize energy usage."

"Social: Climate change is the world's leading health threat."

"Environmental: Because climate change poses a direct threat to the New York shoreline, any effort to reduce carbon footprint is a benefit to a waterfront community like Southampton."

According to the 2010 Long Island Carbon Footprint Project, the Town of Southampton emits 1,011,499 CO<sub>2</sub> per year. The study concluded that the built environment contributes to roughly 88% of the Town's annual greenhouse gas emissions making up the majority of Town's carbon footprint. This understanding has focused Town Board efforts on reducing energy consumption through land use via code amendments and programs that specifically target a reduction in energy consumption by requiring higher efficiency's for all new or substantially reconstructed residential dwellings.

The adoption of the Sustainability plan and actions referenced herein are examples of the Town's response to the increasing demand for energy, the growing pressure on local electric utility infrastructure as well as overinflated energy costs. With power supply costs within LIPA Zone K (Nassau and Suffolk County) among the highest in the state, there is not only an environmental incentive but also a significant financial incentive to challenge the status quo and achieve a resilient and diversified economy that meets the Town's renewable energy goals.

Several municipalities including the Town of Southampton have identified the significance of adopting more stringent requirements as part of their Town Codes, such as EnergyStar, minimum HERS scores, benchmarking and the 2012 IECC (International Energy Conservation Code). The NYStretch Energy Code 2020 project was undertaken by NYSEDA to develop a pivotal tool for New York jurisdictions to support the State's energy and climate goals by accelerating the savings obtained through their local building energy codes. Authorities having jurisdiction have the legal ability to voluntarily adopt NYStretch-Energy. The NYStretch Code was developed as a statewide model code to save more energy than New York's minimum code and to be readily adopted as a more stringent local standard to the ECCCNY.

This proposed Code amendment, seeks to amend the Town Code to be consistent with the new regulations proposed by the NYSEDA NYStretch 2020 while maintaining the Town's commitment to the health and public safety of the community.

## **SECTION 2. Amendment.**

Chapter 123 (Building and Construction) of the Southampton Town Code is hereby amended by deleting the stricken words and adding the underlined words as follows:

### **§ 123-37 Home Energy rating index conservation requirements.**

A. Pursuant to § 11-109 [NOTE: Chapter 560 of the Laws of 2010, New York.] of the Energy Law of the State of New York, the Town of Southampton, Suffolk County, New York, hereby accepts the applicability of the NYStretch Energy Code 2020, and shall enforce the 2020 Energy Conservation Construction Code of New York State (ECCCNY) as modified in the manner contemplated by NYStretch Energy Code 2020. Such local energy conservation construction code shall consist of the provisions currently set forth in Part 1240 and in the publications currently incorporated by reference in Part 1240; provided, however, that the 2020 ECCCNY and ASHRAE 90.1-2016 shall be deemed to be modified as follows:

(1) In each case where a section, table, or appendix in the 2018 IECC or ASHRAE 90.1-2016 is modified or added to by NYStretch, the corresponding section, table, or appendix in the 2020 ECCCNY or ASHRAE 90.1-2016 shall be deemed to be modified in the same manner, subject to the following exception:

(a) Section R403.6.2 added to the 2018 IECC by NYStretch shall not be deemed to be added to the 2020 ECCCNY;

A. ~~B. Residential energy rating index requirements. Effective October 3, 2016~~ Any newly built or substantially reconstructed subject 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 and diagnostic tests, including combustion safety tests. The HERS rater must attest that the home was rated to the HERS index prescribed below and passed all combustion safety tests, prior to the issuance of a certificate of occupancy.~~ be rated and or verified as compliant by an independent, Residential Energy Services Network (RESNET) certified home energy rating system (HERS) rater, following the protocol set out by RESNET, or equivalent certification and protocol approved by the Chief Building Inspector. Said protocols shall be

consistent with the requirements of the Energy Rating Index standards in the 2018 IECC, including all required reviews and diagnostic tests, including all required combustion safety tests.

- (1) For all newly built subject dwellings, approved rater must attest that the home was rated to the Energy Rating Index (ERI) prescribed below and passed all required combustion safety tests, prior to the issuance of a certificate of occupancy.
- (a)(1) Dwellings with up to 4,500 square feet of conditioned space shall achieve a minimum Home Energy Rating Index (ERI) of 54 50 or less.
- (b)(2) Dwellings with over 4,500 square feet of conditioned space shall achieve a minimum Home Energy Rating Index (ERI) of 35 or less.
- (2) For all substantially reconstructed dwellings, prior to the issuing of a building permit plans shall clearly demonstrate compliance with the requirements of the 2020 ECCCNY as supplemented by NYStretch Energy Code 2020.
- ~~B.(3) Effective October 3, 2016, p~~ Prior to the issuance of a building permit for any new or substantially reconstructed subject dwelling, the applicant shall submit a certificate from a ~~certified an approved~~ certified home energy rate systems (HERS) rater that the house design complies ~~has received the necessary tentative home energy rating index, per with~~ Subsection **A B**, based on a review of the plans and specifications.
- ~~D.(4)~~ The owner of a structure or proposed structure may apply for a waiver from the energy rating requirement in Subsection B (1), by written application to the 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 Chief Building Inspector shall determine whether there is a showing of need for relief from strict compliance to the standards enumerated in Subsection **A B** above. In determining the conduciveness of a property and practicable difficulties, the 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 **A B** above. If the Chief Building Inspector determines that a waiver is appropriate, the property owner shall provide a practicable plan for alternative ~~methods of energy conservation paths to compliance as per the requirements of the 2020 ECCCNY as supplemented by NYStretch Energy Code 2020,~~ conducive ~~for~~ to 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 Chief Building inspector shall grant a waiver, in writing, from the rating 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 Chief Building Inspector. Following the granting of the waiver, the Chief Building Inspector shall make a written determination of its findings and reasoning for administrating such wavier and file the determination with the Town Planning and Development Administrator.

C. Commercial building energy conservation requirements. Any newly built or substantially reconstructed commercial building shall comply with all standards and requirements identified in the 2020 ECCCNYs as supplemented by the NY Stretch Energy Code 2020, including Appendices CB (Rated R-Value of Insulation - Commercial) and CC (Additional Power Distribution Systems).

C-D. The owner of a structure may apply for a waiver from the requirements of this section on the basis that the structure is of historic significance. The owner seeking a waiver shall make application to the Town Landmarks and Historic Districts Board for such waiver. The Landmarks and Historic Districts Board shall grant the application for the waiver if the applicant shall demonstrate that meeting the requirements of this section would have an adverse impact on the historical nature of the structure, and there are no practicable alternatives that would allow the applicant to comply with the requirements of this section and maintain the historical significance of the structure.

### **SECTION 3. Authority.**

The Town Board may adopt this local law pursuant to §10(1)(ii)(a)(11) and (12) of Municipal Home Rule Law, as well as §130(1) of New York State Town Law.

### **SECTION 4. Severability.**

If any section or subsection, paragraph, clause, phrase or provision of this law shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this law as a whole or any part thereof other than the part or provisions so adjudged to be invalid or unconstitutional.

### **SECTION 5. Effective Date.**

This local law shall take effect upon filing with the Secretary of State pursuant to Municipal Home Rule Law.

AND BE IT FURTHER RESOLVED, that the Town Clerk is hereby directed to publish the following Notice of Adoption:

#### **NOTICE OF ADOPTION**

PLEASE TAKE NOTICE that, after a public hearing was held by the Town Board of the Town of Southampton on November 23, 2021, and December 14, 2021, the Town Board, at its meeting of December 14, 2021, adopted LOCAL LAW NO. 25 OF 2021 as follows: "A LOCAL LAW amending Chapter 123 (Building Construction) Article V (Energy Conservation) of the Code of the Town of Southampton to modify the HERS Rating Standards and adopt NYStretch Energy Code-2020 as a component of the Town's Energy Conservation Code."

#### Summary of Proposed Law

The proposed local law seeks to amend Chapter 123 (Building Construction) Article V (Energy Conservation), modifying the HERS Rating Standards to reflect all standards and requirements identified in the 2020 ECCCNY as supplemented by the NYSERDA NYStretch Energy Code-2020 as a component of the Town's Energy Conservation Code.

Copies of the local law, sponsored by Councilman John Bouvier and Rick Martel, are on file in the Town Clerk's Office, Monday through Friday, from 8:30 a.m. to 4:00 p.m.

BY ORDER OF THE TOWN BOARD  
TOWN OF SOUTHAMPTON, NEW YORK  
SUNDY A. SCHERMEYER, TOWN CLERK

**Financial Impact**

None.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	John Bouvier, Councilman
<b>SECONDER:</b>	Rick Martel, Councilman
<b>AYES:</b>	Schneiderman, Lofstad, Martel, Bouvier, Schiavoni

## Support documentation – Exhibit B

### **Notice of Adoption to Amend Chapter 123 (Building Construction) Article V (Energy Conservation) to Modify the HERS Rating Standards and Incorporate NYStretch Energy Code-2020 into the Town Code**

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 Southampton.

The 2020 NYStretch Energy Code (NYStretch) is a voluntary, locally-adoptable stretch energy code, developed by the New York State Energy Research and Development Authority and a team of stakeholders and consultants, and has undergone a diverse stakeholder and public review to ensure that its provisions were agreeable and achievable. NYStretch is an overlay of the 2020 NY State Energy Conservation Construction Code (NYS Energy Code).

NYStretch is a statewide model code for New York municipalities to use to meet their energy and climate goals by accelerating the savings obtained through their local building energy codes and reducing greenhouse gas emissions from the building sector.

NYStretch includes provisions for both residential and commercial building and applies to both new construction, major renovations, alterations and additions that would need to comply with the State Energy Code. For renovations, compliance with NYStretch would only apply to the components of the building being renovated.

State-wide, the 2020 NYStretch Energy Code is approximately 20% more efficient in residential building (than the residential provisions of the 2018 IECC) and roughly 7% more efficient in commercial building (than the commercial provisions of ASHRAE 90.1-2016) for an overall increased efficiency of 11% over the 2020 NYS Energy Code (Source: NYStretch Stringency Analysis Summary, NYSERDA).

The following code amendment seeks to modify the Town of Southampton's Energy Conservation Code by incorporating NYStretch Energy Code 2020, and shall enforce the 2020 Energy Conservation Construction Code of New York State (ECCCNYS) as modified in the manner contemplated by NYStretch Energy Code 2020.

In efforts to ensure the compatibility of the standards promulgated within NYStretch-2020 and the Town's Building and Construction code, the Town Board adopted language that would maintain the Town's more stringent ERI standards for newly constructed subject dwellings. In addition, the Town adopted language providing alternative paths to compliance for all new substantially reconstructed dwellings demonstrating compliance with the requirements of the 2020 ECCCNYS as supplemented by NYStretch Energy Code 2020.

The Town of Southampton by Resolution No. 2017-475, the Town Board established the goal to meet one hundred percent (100%) of electricity consumption needs through renewable energy sources by the year 2025, and via the Town's adopted 2013 Sustainability Plan seeks to be Carbon neutral by 2040. Therefore, adopting the 2020 NYStretch Energy Code as part of the Town's Building and Construction code, aligns with the overarching goals of the Town Board maintaining the Town's commitment to the health and public safety of the community.