



East Hampton Town Board

159 Pantigo Road
East Hampton, NY 11937

Carole Brennan
Town Clerk

www.ehamptonny.gov

Meeting: 02/16/17 06:30 PM
DOC ID: 18071 B

ADOPTED

RESOLUTION 2017-284

Adopt Local Law Amending Chapter 102 (Building Construction) to Adopt HERS Rating Energy Conservation Requirements

WHEREAS, the Town Board held a public hearing on February 16, 2017, regarding a "LOCAL LAW amending Chapter 102 (Building Construction) to adopt HERS Rating Energy Conservation Requirements"; and

WHEREAS, after considering the matter and the comments of the public at the time of hearing, the Town Board believes that the enactment of this local law is in the best interests of the Town of East Hampton; and

WHEREAS, the proposed local law is a Type II Action pursuant to the New York State Environmental Quality Review Act (SEQRA) 6 NYCRR Part 617.5 and Chapter 128 of the Town Code requiring no further environmental review; and now, therefore be it

RESOLVED, said Local Law is hereby adopted to read as follows:

LOCAL LAW NO. 6 of 2017
Intro. # 3 of 2017

"A LOCAL LAW amending Chapter 102 (Building Construction) to adopt HERS Rating Energy Conservation Requirements".

BE IT ENACTED by the Town Board of the Town of East Hampton as follows:

SECTION 1. Legislative Intent.

This legislation is intended to adopt a Home Energy Rating System requirements for all new construction and substantial reconstruction within the Town in order to reduce energy usage and provide for more efficient home construction standards.

SECTION 2. Amendment.

Chapter 102 (Building Construction), Section 102-24 (East Hampton Town Energy Savings Program) of the East Hampton Town Code is hereby amended by deleting the section in its entirety and adding the underlined words in a new Section 102-24 (East Hampton Town Energy Savings Program) as follows:

Chapter 102: Building Construction

§102-24 East Hampton Town Energy Savings Program.

A. Effective June 1, 2017, 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.

(1) Dwellings with up to 4,500 square feet of conditioned space shall achieve a minimum home energy rating index of 54 or less.

(2) Dwellings with over 4,500 square feet of conditioned space shall achieve a minimum home energy rating index of 35 or less.

B. Effective June 1, 2017, 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 home energy rating system (HERS) rater that the house design has received the necessary tentative home energy rating index, per Subsection A, based on a review of the plans and specifications.

C. 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 Architectural Review Board for such waiver. The Architectural Review 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.

D. The owner of a structure or proposed structure may apply for a downgraded home energy rating requirement by written application to the Principal 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 Building Inspector shall determine whether there is a showing of need for relief from strict compliance to the standards enumerated in Subsection A above. In determining the conduciveness of a property and practicable difficulties, the Principal 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 above. If the Principal 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 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 Building Inspector.

SECTION 3. Amendment.

Chapter 102 (Building Construction of the East Hampton Town Code is hereby amended by adding the underlined words in a new Section 102-24A (Appeal of Principal Building Inspector's determination.) and new Section 102-24B (Definitions.) as follows:

Chapter 102: Building Construction**§ 102-24A. Appeal of Principal Building Inspector's determination.**

Any applicant aggrieved by a decision made by the Principal Building Inspector under § 102-24 above may appeal such decision, denial, condition, or waiver of the Principal Building Inspector by filing a written petition, along with a fee in an amount as set by resolution of the East Hampton Town Board, in the office of the Town Clerk for review to the Energy Conservation Administrative Appeals Board (hereinafter referred to as "ECAAB"). The ECAAB shall be comprised of the following persons: (1) Environmental Protection Director; (2) Town Engineer; (3) Chair of the Zoning Board of Appeals. The ECAAB shall meet to review the petition within two weeks of receipt thereof and may hold hearings upon seven days' notice by certified mail to the applicant or his agent, at the address included in the petition. The ECAAB may conduct field visits and obtain additional information deemed necessary in rendering its decision. The ECAAB shall have the authority to hire independent consultants at its sole discretion to help it render a decision by undertaking actions including but not limited to review of plans, conduction of site testing, and modeling of proposed plans. The ECAAB may require an applicant to pay the costs incurred by the ECAAB for all independent consulting services it may reasonably seek to engage, including but not limited to engineering, planning, legal and clerical costs incurred in processing and review of an application. Upon completion of the review of the appeal or the close of the public hearing, the ECAAB shall issue a decision in writing and state the reasons and attendant conditions of its decision. A decision shall be issued within 45 days of the end of the hearing or completion of review.

§102-24B. Definitions.

For the purposes of §102-24 and §102-24A, the following words and terms shall have the following meanings:

SOLAR HEATING SYSTEM

Usually panels or coils of plastic or metal through which water passes to increase the temperature by using the sun's radiant energy.

SUBJECT DWELLING

Any one- or two- family dwelling or multifamily dwelling (including townhouses) not more than three stories in height, with a separate means of egress for each dwelling, a minimum of one heating facility for each four dwelling units, and a separate primary electric meter for each dwelling unit.

SUBSTANTIAL RECONSTRUCTION

Construction that includes the removal and replacement of the ceiling, interior finishes of a dwelling which expose the exterior framing, and more than 50% of any windows, exterior doors, or HVAC building system.

SECTION 4. Authority.

The proposed local law is enacted pursuant to Municipal Home Rule Law §

SECTION 5. 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 6. Effective Date.

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

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Peter Van Scoyoc, Councilman
SECONDER:	Fred Overton, Councilman
AYES:	Kathee Burke-Gonzalez, Peter Van Scoyoc, Fred Overton, Larry Cantwell
ABSENT:	Sylvia Overby