

NYStretch Energy Code—2020

# Adoption Guide and Model Resolution Language



NEW YORK  
STATE OF  
OPPORTUNITY.

**NYSERDA**



## 1. Introduction

The 2020 Energy Conservation Construction Code of New York State (2020 ECCCNY) will be the statewide minimum code for energy efficiency standards and requirements in New York State, authorized under the Energy Law of New York, and contained in Title 19, part 1240 of the New York Codes, Rules, and Regulations (cited as 19 NYCRR Part 1240). Under the New York State Energy Law, Article 11, **local energy codes** are permitted by law in New York State, as long as the local energy code is more stringent than the New York State energy code.<sup>1</sup>

NYStretch Energy Code 2020 (NYStretch) is a voluntary, above-code standard that can be adopted by a New York State municipality as a more stringent local energy code. Cost and savings analyses demonstrate that NYStretch will be 10 to 12% more efficient than the upcoming 2020 ECCCNY. Municipalities may voluntarily adopt NYStretch to ensure all new construction and major renovation projects go above and beyond the minimum code requirements of the 2020 ECCCNY.

This adoption guide provides an overview of the New York State law requirements, model resolution language, and New York State Department of State (NYSDOS) filing guidance to help facilitate NYStretch adoption. The guide and model resolution are provided for reference and example purposes only and do not constitute the provision of legal advice. Any questions regarding submission requirements for filing a local energy code should be directed to NYSDOS.

## 2. New York State Energy and Research Development Authority (NYSERDA) Support

Upon request, NYSEDA staff or Clean Energy Communities coordinators can provide support to communities or community groups interested in adopting NYStretch. This can include, but is not limited to, presentations to planning committees, elected officials or at public hearings, and assistance with preparing proposals. Contact [codes@nyseda.ny.gov](mailto:codes@nyseda.ny.gov).

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<sup>1</sup>NY State Energy Conservation Construction Code Act § 11-109 (1) provides:

*“Nothing in this article shall be construed as abrogating or impairing the power of any municipality or the secretary of state to enforce the provisions of any local building regulations or the state uniform fire prevention and building code, if such local building regulations are not inconsistent with the code. Nor shall anything in this article be construed as abrogating or impairing the power of any municipality to promulgate a local energy conservation construction code more stringent than the code, including but not limited to requirements for mandatory energy efficiency testing and rating.”*

Local governments have the general power to enact building codes under NY Municipal Home Rule Law §10 and NY State Town Law §130(1).

**All information, content, and materials are for general informational purposes only and not for the purpose of providing legal advice. You should contact your attorney to obtain advice with respect to any particular legal matter. You should not act or refrain from acting on the basis of information provided herein without first seeking legal advice. Use of, and access to this information does not create an attorney-client relationship between the reader or user and its authors. All liability with respect to actions taken or not taken based on the contents provided herein are hereby expressly disclaimed.**

### 3. Adopting NYStretch and filing with Department of State

The steps to adopt NYStretch require the same process as adopting any other local law or amendment, including adherence to the procedures detailed in Article 3 of the Municipal Home Rule Law. For detailed instructions on adopting a local law, NYSDOS provides a useful guidance document, entitled “*Adopting Local Laws in NY State*,” available at: [https://www.dos.ny.gov/lg/publications/Adopting\\_Local\\_Laws\\_in\\_New\\_York\\_State.pdf](https://www.dos.ny.gov/lg/publications/Adopting_Local_Laws_in_New_York_State.pdf)

When a municipality decides to adopt NYStretch, NYDOS also requires a form and documentation be filed **within 30 days of promulgation or adoption** of the local energy code. The required documentation that must be submitted with the NYSDOS form “*Filing of More Stringent Local Energy Conservation Construction Code*” is as follows:

- **Exhibit A: NYStretch Energy Code 2020**  
(available at [nyscrda.ny.gov/stretchenergy2020](https://nyscrda.ny.gov/stretchenergy2020))
- **Exhibit B: a copy of the local energy conservation construction code promulgated or adopted by the Municipality, or any amendments or revisions to the same**
- **Exhibit C: A description of the provisions imposed by the local energy code**
- **Exhibit D: The cost-effectiveness analysis provided by NYSERDA demonstrating that the NYStretch is more stringent than the 2020 ECCCNY**

If this NYSDOS form and documentation **are not filed within 30 days** of promulgation or adoption of the local code, the municipality **will be unable** to enforce the code until the State Fire Prevention & Building Code Council determines that the local code is more restrictive than the 2020 ECCCNY.

### 4. SAMPLE DOCUMENTS

- A. Model Energy Code Resolution: An example of a model resolution for a town or city to use to adopt NYStretch as a local energy code. Also available at [nyscrda.ny.gov/stretchenergy2020](https://nyscrda.ny.gov/stretchenergy2020)
- B. NYSDOS Form: *Filing to the State Fire Prevention & Building Code Council of More Stringent Local Energy Conservation Construction Code*. A form-fillable pdf with instructions for filing the necessary document is available at <https://www.dos.ny.gov/DCEA/pdf/Energy/Filing-of-a-Local-Energy-Conservation-Construction-Code-11-109.pdf>

## A. Sample Model Energy Code Resolution

**Jurisdiction Name**

**City/Town, NY**

**[Municipal Governing Body] [Resolution Reference Number]**

**Resolution to Adopt Amendments to Article [# pertaining to e.g., Building Code, Building Energy Code, Energy Conservation, etc.] [or “to Add provisions for a local energy code under Article #”] of the [Municipal] Code**

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### Information

**Department:**

[MUNICIPALITY]

Attorney

**Sponsors:**

[Chief Executive of Municipality]

**Functions:**

None

**Category:**

Local Laws

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### Financial Impact

None.

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### Body

WHEREAS, to prevent a statewide patchwork of stricter energy codes, the New York State Energy Research and Development Authority (NYSERDA) developed the NYStretch Energy Code – 2020 (NYStretch);

WHEREAS, a stretch energy code is simply an energy code that is more stringent than the minimum base energy code that can be voluntarily adopted by local jurisdictions. NYStretch is a model stretch code that will be ten to twelve percent (10-12%) more efficient than the minimum requirements of the base energy code, the 2020 Energy Conservation Construction Code of New York State (2020 ECCCNY);

WHEREAS, some New York State municipalities have adopted stricter energy standards to ensure reduced energy costs for its residents and businesses;

WHEREAS, under NY Energy Law § 11-109, the [Municipality] of [Name of Municipality] is authorized to adopt a local energy code more stringent than the 2020 ECCCNY;

WHEREAS, [additional clauses entered by municipality as deemed necessary regarding introduction of NYStretch];

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WHEREAS, the [Municipal Governing Body] is considering [either “**amending provisions of Article #** [pertaining to e.g., Building Code, Building Energy Code, Energy Conservation Code, etc.]” or “**to add provisions for a local energy code under Article #**”] of the [Municipality] Code; and

WHEREAS, a public hearing was held on [DATE], at which time all persons either for or against said amendments were heard; and

WHEREAS, the [Municipal Governing Body] is declared Lead Agency for the purposes of environmental review with respect to the proposed resolution, in accordance with Article 8 of the Environmental Conservation Law of the State of New York, and the regulations promulgated thereunder at 6 NYCRR 617 (collectively, “SEQRA”); and

WHEREAS, the [Municipal Governing Body], as Lead Agency, has advised that the proposed action meets the criteria of a “Type II Action” under SEQRA; now, therefore, be it further

RESOLVED, that Local Law No. [#] of [YEAR] is hereby adopted as follows:

LOCAL LAW NO. [#] OF [YEAR]

A LOCAL LAW [either “**amending provisions of Article #** [pertaining to e.g., Building Code, Building Energy Code, Energy Conservation, etc.]” or “**adding provisions for a local energy code under Article #**”] of the [Municipality] Code;

BE IT ENACTED by the [Municipal Governing Body] of [Municipality] as follows:

## **Section 1. Legislative Intent**

The [Municipal Governing Body] of the [Name of Municipality] seeks to protect and promote the public health, safety, and welfare of its residents by mandating energy efficient building standards. On [DATE TBD 2020], the 2020 Energy Conservation Construction Code of New York State (2020 ECCCNY), updated by the New York State Fire Prevention and Building Code Council, will become effective and must be complied with for residential and commercial buildings unless a more restrictive energy code is voluntarily adopted by a local jurisdiction. In 2019, the New York State Energy Research and Development Authority (NYSERDA) developed and published the NYStretch Energy Code 2020 (hereinafter referred to as NYStretch), a more energy efficient building code than the 2020 ECCCNY. This proposed [Code Amendment] seeks to modify the [Municipality] Code to adopt NYStretch and to enact more restrictive regulations as they relate to new or substantially renovated buildings.

## **Section 2. Amendment**

[Refer to the appropriate section in the Town or City Code where the building code, building energy code, or energy conservation code is adopted, or where the applicability of The New York State Uniform Fire Prevention and Building Code (in accordance with Article 18 of the Executive Law of the State of New York) and the Energy Conservation and Construction Code of New York State (per Article 11 of the Executive Law of the State of New York) are identified.]

[SECTION # IN MUNICIPALITY'S CODE]

Effective [DATE], the NYStretch Energy Code 2020, published by the New York State Energy Research and Development Authority (hereafter referred to as "NYStretch"), shall be applicable to all new construction and substantial renovations in the [Municipality] of [Name of Municipality].

## **Section 3. Authority**

The proposed local law is enacted pursuant to New York Energy Law § 11-109(1), and Municipal Home Rule Law § 10 and in accordance with the procedures detailed in Municipal Home Rule § 20.

## **Section 4. Severability**

If any section or subdivision, paragraph, clause, phrase 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 provision so adjudged to be invalid or unconstitutional.

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## Section 6. Effective Date

This local law shall take effect upon filing with the Secretary of State [i.e., within 30 days of adoption of NYStretch] pursuant to New York Energy Law § 11-109(1) and the Municipal Home Rule Law.

AND BE IT RESOLVED, that the [Municipality] Clerk is hereby directed to publish the following Notice of Adoption:

## NOTICE OF ADOPTION

TAKE NOTICE that after a public hearing was held by the [Municipal Governing Body] of the [Name of Municipality] on [DATE], the [Municipal Governing Body], at its meeting on [DATE], adopted Local Law No. [#] of [YEAR] as follows: “A LOCAL LAW [either “**amending provisions of Article #** [pertaining to e.g., Building Code, Building Energy Code, Energy Conservation, etc.]” or “**adding provisions for a local energy code under Article #**”] of the [Municipality] Code.”

## SUMMARY OF LOCAL LAW

These code [amendments/provisions] make the [Municipality] Code consistent with revisions to the New York State Energy Conservation and Construction Code and adopt more stringent regulations as they relate to new construction or substantial renovation projects.

Copies of the proposed local law sponsored by [SPONSOR TITLE AND NAME] are on file in the [TOWN/CITY] Clerk’s Office, Monday through Friday, from [BUSINESS HOURS].

BY ORDER OF THE [Municipal Governing Body]

[TOWN/CITY], NEW YORK

[NAME], [Municipality] CLERK

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## B. Sample NYSDOS FORM



### Building Standards and Codes

**New York State  
Department of State  
Division of Building Standards  
and Codes**  
One Commerce Plaza  
99 Washington Avenue, Suite 1160  
Albany, NY 12231-0001  
Phone: (518) 474-4073  
Fax: (518) 486-4487  
www.dos.ny.gov

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

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**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>: \_\_\_\_\_

**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: \_\_\_\_\_

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

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_ Email Address: \_\_\_\_\_  
( ) - - ( ) - - \_\_\_\_\_

<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).



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**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: \_\_\_\_\_.

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: \_\_\_\_\_.

**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** \_\_\_\_\_ (document name)

**Exhibit C** \_\_\_\_\_ (document name)

**Exhibit D** \_\_\_\_\_ (document name)

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature of Filer

\_\_\_\_\_  
Print or Type Name and Title of Filer

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

Gerard Hathaway, R.A.  
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](mailto: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) 486-6990, e-mail at [Gerard.Hathaway@dos.ny.gov](mailto:Gerard.Hathaway@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.



**NYSERDA**

**New York State  
Energy Research and  
Development Authority**

17 Columbia Circle  
Albany, NY 12203-6399

**toll free: 866-NYSERDA**

**local: 518-862-1090**

**fax: 518-862-1091**

info@nyserda.ny.gov  
nyserda.ny.gov