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MEMORANDUM

TO: Supervisor Burke-Gonzalez and Members of the Town Board

FROM: Dennis M. Brown
Assistant Town Attorney

RE: Amend Chapter 102-14 Certificate of Occupancy

DATE: September 1, 2026

Introduction

The proposed is to restate and amend the Town Code regarding pre-transfer inspections of property being sold or transferred (the "covered property") so it complies with any certificates of occupancy on record.

The Proposed Law

The most recent version of the proposed amendment differs from the last version (July 6) as follows:

The definition section in the July 7 version was rewritten. Among other terms, the new version no longer uses the term "updated certificate of occupancy." The proposal now uses the term "certificate of compliance."

Section 102-14(A) of the original code has been rewritten. The section adds new subdivisions (B) and (B)(1), (C) and (D), describing the inspection process. The original paragraphs (B), (C), and (D) remain in the Code, but are now re-lettered as (E), (F), and (G).

As with the July 6 proposal, the September 1 proposal allows (1.) inspections by third party professionals and (2.) retains the Building Inspector's warrant powers.

As now proposed, the law requires that before covered property is conveyed to a buyer, the seller must apply to the Building Inspector for a pre-transfer inspection to confirm compliance with any certificates of occupancy on record and Town Code. The application for the pre-transfer inspection shall be prominently marked with a notice stating that the seller is authorizing entry to the Building Inspector to perform the pre-transfer inspection.

In lieu of an on-site inspection by a Building Inspector, an applicant may elect to provide an affidavit of compliance attested to by a professional engineer or licensed architect. The affidavit of compliance must be delivered to the Building Inspecter and must be accompanied by a survey of the property no older than six months prior to the date of the affidavit of compliance. The Building Inspector may reject the certificate for good cause. If necessary, the Building Inspector has the right to seek a warrant to enter the premises.

The law does not require a pre-transfer inspection when (1.) when a certificate of occupancy was issued within the six months before the date of transfer or (2.) where the transfer is made solely for estate planning purposes where the ownership of the property is transferred to a trust, LLC or similar entity and the beneficial ownership of the property remains unchanged.

Effective Date

The proposed effective date is upon filing of the local law with the Secretary of Law. It shall apply to all contracts fully executed on or after January 1, 2027.

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF EAST HAMPTON AS FOLLOWS:

Section 1. Town Board Findings and Determinations.

The Board finds and determines that Chapter 102 of the East Hampton Town Code 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") by the Building Inspector.

The Board determines that it is in the best interests of the residents of the Town to amend Chapter 102 to add definitions for certain building terms and to allow pre-transfer inspections by the Building Inspector and third-party inspections to confirm compliance and conformity with the Town Code and certificates of occupancy on record.

Section 2. Amendments.

Chapter 102
Article I
Building Construction

*** * ***

Section 102-14. Certificate of occupancy.

Definitions. For purposes of this section the following definitions shall apply:

Affidavit of compliance means a form as prescribed by the Building Inspector that is sworn to or affirmed for use by either a New York State licensed professional engineer or New York State licensed architect.

Building Inspector means the Chief Building Inspector of the Town of East Hampton or the Chief Inspector's designee.

Buildings Department (or Department) refers to the Town Of East Hampton Building Department.

Certificate of Compliance means a Buildings Department record made after inspection and approval confirming certificates of occupancy for all structures of the covered property.

Covered property means the real property proposed for transfer and all structures therein located within the metes and bounds description of such real property.

Grantee means the transferee to whom the covered property will be transferred.

Grantor means the record owner or legal transferor.

Pre-transfer inspection means the inspection performed in accordance with this Chapter of the covered property to confirm certificates of occupancy of all structures of the covered property.

Transfer means the sale, conveyance, or transfer of title by grantor to grantee of covered property.

Survey means a survey completed with dimensions and setback distances from property lines by a New York State Licensed Surveyor made within 6 months of the proposed transfer of the covered property. The survey shall include both the existing coverage totals and allowable coverage totals for building coverage, lot coverage and clearing coverage.

A. No building or structure hereafter erected shall be used or occupied in whole or in part until a certificate of occupancy shall have been issued by the Building Inspector. [Upon any change in ownership of a property, an updated certificate of occupancy shall be obtained, except where an updated certificate of occupancy has been obtained no more than six months prior to the date of transfer or where the transfer is made solely for estate planning purposes where the ownership of the property is transferred to a trust, LLC or similar entity and the beneficial ownership of the property remains unchanged.]

B. Notwithstanding the terms and conditions of this Chapter pertaining to the application and issuance of a certificate of occupancy, prior to any transfer of ownership of covered property, the grantor thereof shall apply to the Building Inspector on the form prescribed to perform a pre-transfer inspection, the purpose of which is to determine whether any and all structures on the covered property has such necessary certificates of occupancy. The application for the pre-transfer inspection shall be prominently marked with a notice stating that by signing the pre-transfer inspection form the grantor is consenting to entry of the Building Inspector to the covered property to perform the pre-transfer inspection.

(1) In lieu of an on-site inspection by a Building Inspector, an applicant may elect to provide at its sole expense an affidavit of compliance

to the Building Inspector by either a New York State licensed professional engineer or a New York State licensed architect under Articles 145 and 147, respectively, of the Education Law attesting that the pre-transfer inspection of the covered property was performed to conclusion, and that all structures of the covered property has all necessary certificates of occupancy. Every affidavit of compliance must be accompanied by a survey of the property dated not more than six months prior to the date of the affidavit of compliance. The Building Inspector retains the right to reject any document submitted under this paragraph for good cause shown.

C. No pre-transfer inspection and affidavit of compliance shall be required (1) when a certificate of occupancy was issued not more than six months prior to the proposed date of transfer or (2) where the transfer is made solely for estate planning purposes where the ownership of the property is transferred to a trust, LLC or similar entity and the beneficial ownership of the property remains unchanged.

D. In addition to any and all other rights and remedies, the Building Inspector shall have full authority to apply for a search warrant pursuant to § 255-10-22(A)(8) and other applicable provisions of law.

[B] E. * * *

[C] F. * * *

[D] G. * * *

Section 3. Applicability.

These amendments to section 102-14 shall apply to all contracts of sale of real estate fully executed on or after January 1, 2027.