

APPENDIX G
CASE 10-T-0139
EM&CP SUPPLEMENT LOCAL LAW ASSESSMENT

CMT Hut Amendment – Local Law Assessment

Section 1. Introduction and Overall Analysis

The Certificated CHPE Facility was assessed and approved to be located in all four Towns in which CMT Huts are proposed, including within the specific zoning districts where the CMT Huts would be placed. As such, the bulk of the local law assessment performed originally for the Facility has already been completed and approved as part of the Article VII Certificate, consistency with local laws (or waivers of compliance with provisions of local law) was determined by the Commission in the April 18, 2013 Certificate Order and will not be disturbed here, and the local law assessments previously conducted will not be duplicated here. The purpose of this document is solely to capture those substantive provisions of local law which were not assessed as part of the Article VII Certification because, at that time, no permanent above-ground structures of this nature were proposed or considered outside of New York City. As such, this assessment does not include such provisions as the permissible uses in identified zoning districts, construction hours, or other local laws related to construction or operation of the underlying CHPE Facility have already been assessed.¹

As a preliminary matter, the CMT Huts have been treated as accessory structures, as noted below, under local codes for the Towns of Putnam, Ballston, Catskill and Stony Point. Pursuant to New York Public Service Law Section 130, all procedural requirements of local laws are preempted by Article VII of the PSL—this assessment is focused solely on substantive provisions of local law and CHPE’s compliance therewith. Based on this review, no waivers of substantive requirements of local law are requested in connection with the CMT Hut amendment.

Of note, all four communities² in which CMT Huts are proposed traditionally require building permits for the erection of structures subject to the New York State Building and Fire Code (“State Codes”). However, it is the Certificate Holders’ understanding that the types of prefabricated communications structures to be installed in this instance are exempt from the New York State Building and Fire Code; the Applicant is in the process of conferring with the Towns and Washington County to affirm that this is the case. Should

¹ Original Exhibit 7 submitted with the Applicants’ original petition for a CECPN and Exhibit 15 submitted with the Joint Proposal (the “JP Local Law Exhibit”), respectively, contain comprehensive lists of all local laws applicable to the original Project route. Updated local law assessments applicable to Certificate Amendments were submitted with Amendment 2 (Appendix I, DMM Item 768, filed December 6, 2019); Amendment 3 (Appendix G, DMM Item 805, filed October 9, 2020); Amendment 5 (Appendix J, DMM Item 832, filed June 4, 2021); and Catskill Reroute Amendment (Attachment 1, DMM Item 1160, filed May 26, 2023). This submission supplements these local law assessments with provisions which would otherwise be applicable to installation of the CMT Hut components only, without revisiting the question of local laws applicable to the Certificated Facility.

² Code enforcement, including application of the State Codes, is conducted by Washington County and not the Town of Putnam. The remaining municipalities—Ballston, Catskill and Stony Point—administer the State Codes at the Town level.

these consultations identify the potential need for local building permits as part of local administration of the State Code, the Certificate Holders will supplement this filing with additional information.

For reference, the CMT Huts are located in the following zoning districts in each Town, for purposes of identifying requirements such as setbacks:

- Town of Putnam (no Town zoning districts established)
- Town of Ballston – Rural District; Watershed Protection Overlay District
- Town of Catskill – Industrial District; FEMA Special Flood Area³
- Town of Stony Point – Light Industrial District

Section 2. Procedural Local Laws Not Applicable to the Facility (PSL § 130)

(A) Washington County

- Building Permits, Local Law Number 3 of 2005 for Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code

(B) Town of Putnam

- Town of Putnam Site Plan Review Law

(C) Town of Ballston

- Fire Prevention and Building Construction, §62-2 Building Permits.
- Zoning Code § 138-63, Application for Development within the Watershed Protection Overlay District (and associated site plan/special use permit approvals)

³ FEMA mapping shows that the parcel upon which the Catskill Hut will be located is a designated special flood area. However, the CMT Hut itself is located on a local high point above the FEMA 0.2% (500-year) flood elevation. See Section 8.1.3 of the Certificate Amendment and Environmental Management and Construction Plan (EM&CP) for further discussion.

(D) Town of Catskill

- Building Code Administration § 87-4, Building Permits
- Zoning § 160-18(B) Additional Regulations for Industrial Districts, Required Planning Board Findings
- Zoning §160-20, Site Plan Review
- Zoning §160-21, Special Permit Approval

(E) Town of Stony Point

- Building Code Administration and Enforcement § 77-4, Building Permits
- Building Code Administration and Enforcement § 77-11, Fire Safety and Property Maintenance Inspections
- Zoning §215-59 through -64, Site Development Plan Review
- Zoning § 215-79 and 215-127 to -128, Special Permits

Section 3. Substantive Local Laws and Compliance Therewith

(A) Town of Putnam, Washington County

- No additional substantive local laws applicable to CMT Huts

(B) Town of Ballston, Saratoga County

Chapter	Description	Compliance
Zoning Chapter 138 Attachment 6, Table of Uses, Area, Frontage and Setback Requirements for the Rural District	Setbacks: - Accessory structures less than 200 square feet shall have six feet rear and side yard setbacks	CHPE will comply with this provision. The CMT Huts are less than 200 square feet in size.
Zoning Chapter 138 Attachment 6, Table of Uses, Area, Frontage and Setback Requirements for the Rural District	Building Height (max): 40 feet	CHPE will comply with this provision. The CMT Huts are 10 feet in height.
Zoning. §138-19 Developer to provide roads and utilities.	The access roads and all water, sewage and stormwater control facilities shall be	Although local permits and approvals are not required per PSL § 130, CHPE will

	<p>installed at no cost or expense to the town. Roads to be dedicated to the Town of Ballston will be built in accordance with town highway specifications.</p>	<p>comply with this provision by providing a suitable access driveway to the CMT Hut at no cost to the Town, as shown in Appendix C.</p>
<p>Zoning § 138-62, Prohibited Practices in the Watershed Protection Overlay District</p>	<p>The following practices shall be specifically prohibited within the Ballston Lake Overlay District:</p> <ul style="list-style-type: none"> A. Disposal of hazardous material or solid waste; B. Treatment of hazardous material, except rehabilitation programs authorized by a government agency for treating hazardous material; C. Dry cleaning, dyeing, printing, photo-processing, and any other business that stores, uses or disposes of hazardous material, unless all facilities and equipment are designed and operated to prevent the release or discharge of hazardous material; D. Disposal of septage or septic sludge to include any point source discharge into Ballston Lake or into any waterway flowing into Ballston Lake; E. The bulk storage of coal and/or salt, except in Town-approved impervious structures. The impervious structure shall be submitted to the Town of Ballston Building Department for review and approval; F. The storage of hazardous material in an environment where weather, human 	<p>CHPE will comply with this provision.</p>

	<p>activities, and other disturbances may reasonably be anticipated to cause such substances to spill, leak over time or otherwise be dispersed into the environment in a manner inconsistent with its intended use;</p> <p>G. All mining, unless permitted by the New York State Department of Environmental Conservation;</p> <p>H. The disposal or discharge of any hazardous or radioactive material onto any lands, waters, stormwater conveyances, or disposal conveyances for subsequent treatment or otherwise within the Watershed Protection Overlay District is prohibited, except as allowed by a valid permit from the New York State Department of Environmental Conservation. Examples of prohibited disposal include, but are not limited to:</p> <p>(1) The disposal of hazardous materials by means of discharge to a septic system;</p> <p>(2) The use of septic system cleaners which contain hazardous materials;</p> <p>(3) Land spreading of septage or septic waste.</p>	
<p>Zoning § 138-101(A)(1), Off Street Parking</p>	<p>Off-street parking spaces shall be required for all structures and uses constructed, altered, or rebuilt after the effective date of this chapter . . .</p>	<p>CHPE will comply with this provision. An access driveway with adequate off-street parking has been provided which will accommodate periodic visits to the CMT Hut by CHPE personnel.</p>

(C) Town of Catskill, Greene County

Chapter	Description	Compliance
Zoning § 160-17, Yard and Lot Requirements	Setbacks in Industrial District - Front Yard Setback: 200 feet - Side Yard Setback: 100 feet - Rear Yard Setback: 40 feet	CHPE will comply with this provision.
Zoning § 160-17, Yard and Lot Requirements	Maximum Height: 5 stories	CHPE will comply with this provision. The CMT Huts are 10 feet tall.
Flood Damage Prevention §103-6	A) The areas of special flood hazard for the Town of Catskill, Community Number 361116, are identified and defined on the following documents prepared by the Federal Emergency Management Agency: (1) Flood Insurance Rate Map Panel Numbers 36039C0263F, 36039C0264F, 36039C0268F, 36039C0269F, 36039C0410F, 36039C0416F, 36039C0417F, 36039C0426F, 36039C0427F, 36039C0428F, 36039C0429F, 36039C0431F, 36039C0432F, 36039C0433F, 36039C0434F, 36039C0436F, 36039C0437F, 36039C0439F, 36039C0441F, 36039C0442F, 36039C0443F, 36039C0444F, 36039C0451F, 36039C0452F, 36039C0453F, 36039C0461F, whose effective date is May 16, 2008, and any	The CMT Hut proposed in Catskill falls within FEMA Designated Flood Zone AE, along the Hudson River.

	<p>subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.</p> <p>(2) A scientific and engineering report entitled "Flood Insurance Study, Greene County, New York, All Jurisdictions," dated May 16, 2008.</p>	
<p>Flood Damage Prevention §103-14(B)(1)</p>	<p>(a) Encroachments. Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:</p> <p>The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location; or</p> <p>(b) The Town of Catskill agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Catskill for all fees and other costs in relation to the application. The applicant</p>	<p>The CMT Hut proposed in Catskill falls within FEMA Designated Flood Zone AE, along the Hudson River. While the code references streams with or without regulatory floodways (defined as "the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies"), it does not clearly address requirements within the Hudson River floodplains. Regardless, given the placement of the CMT Hut on a locally elevated point above base flood elevation, and given the relatively small size of the structure itself, it is not anticipated to affect water surface elevation of base flooding in the Hudson River.</p>

	must also provide all data, analyses and mapping and reimburse the Town of Catskill for all costs related to the final map revision.	
Flood Damage Prevention. §103-14(B)(2)	<p>(a) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in § 103-6, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:</p> <p>A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during the occurrence of the base flood; or</p> <p>(b) The Town of Catskill agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Catskill for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Catskill for all costs related to the final map revisions.</p>	The CMT Hut proposed in Catskill falls within FEMA Designated Flood Zone AE, along the Hudson River. While the code references streams with or without regulatory floodways (defined as “the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies”), it does not clearly address requirements within the Hudson River floodplains. Regardless, given the placement of the CMT Hut on a locally elevated point above base flood elevation, and given the relatively small size of the structure itself, it is not anticipated to affect water surface elevation of base flooding in the Hudson River.
Flood Damage Prevention. §103-15(A) Standards for All Structures	Anchoring. New structures and substantial improvement to structures in areas of	CHPE complies with this requirement.

	<p>special flood hazard shall be anchored to prevent flotation, collapse or lateral movement during the base flood. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.</p>	
<p>Flood Damage Prevention. §103-15(B) Standards for All Structures</p>	<p>Construction materials and methods. (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage. (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage. (3) Enclosed areas. (a) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH and also Zone A, if base flood elevation data is available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional</p>	<p>CHPE complies with this requirement.</p>

	<p>engineer or architect or meet or exceed the following minimum criteria:</p> <p>[1] A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.</p> <p>[2] The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.</p> <p>(b) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.</p>	
<p>Flood Damage Prevention. §103-17(A) Nonresidential structures.</p>	<p>The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures located in areas of special flood hazard, in addition to the requirements in § 103-14(A), Subdivision proposals, and § 103-14(B), Encroachments, and § 103-14, Standards for all structures.</p> <p>Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any nonresidential structure shall either:</p> <p>(1) Have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or</p>	<p>CHPE complies with this provision. The latest FEMA mapping referenced in October of 2024 shows a base flood elevation in Zone AE at EL 9 ft. The finished floor elevation of the CMT Hut will be EL 13.5 ft. This is also above the 500-year flood elevation of EL 10.9 ft.</p>

	(2) Be floodproofed so that the structure is watertight below two feet above the base flood elevation, including attendant utility and sanitary facilities, with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.	
Zoning, § 160-18(A) Additional Regulations for Industrial Districts	Performance standards. No land or building in any Industrial District shall be used or occupied in such a manner as to create any dangerous, injurious, noxious or other hazard due to odor, fire, noise, explosion, vibration, smoke, dust or other form of air pollution, glare, electrical or other disturbance. The determination of potentially dangerous or objectionable elements shall be made at locations as follows: (1) At the point of origin for fire and explosion hazards, for radioactivity and electrical disturbances and for air pollution. (2) At the property line for noise, vibration, glare, odors and other hazards or nuisances.	CHPE complies with this provision.
Zoning. §160-33 Fences, Gates, and Walls.	A. General provisions. (1) The height of fences, gates, and walls shall be measured from the lowest adjoining finished grade.	CHPE complies with this provision.

	<p>(2) The finished side of the fence, gate or wall shall face neighboring properties or the street.</p> <p>(3) Fences, gates, and walls shall not encroach on any public right-of-way.</p> <p>(4) The owner of the fence, gate or wall must maintain both sides of the fence, gate or wall in a respectable condition.</p> <p>(5) The height of fences, gates, and walls located within a corner lot or parallel to the street in a front yard shall not exceed 50 inches for a solid or privacy fence or 86 inches for a see-through or nonprivacy fence.</p> <p>(6) Fences, gates and walls along rear and side yards shall not exceed 86 inches in height.</p>	
--	--	--

(D) Town of Stony Point, Rockland County

Chapter	Description	Compliance
Zoning § 215 Attachment 12, Table of General Use Requirements in LI District	Minimum Off-Street Parking Spaces (for public utility buildings: “same as BU District No 1” – requirement is at least 1 parking space per 200 square feet of floor area)	CHPE will comply with this provision. The access driveway and permanent maintained area provides sufficient off-street parking for the CMT Hut, which is less than 200 square feet and not permanently staffed.
Zoning § 215 Attachment 14, Table of Bulk Requirements	Public Utility Buildings classified as “use group a” – setbacks: <ul style="list-style-type: none"> - Front Setback, 30 feet - Rear Setback: 50 feet 	CHPE will comply with this provision.

	<ul style="list-style-type: none"> - Side and Rear Yard Depth: 0 feet - Maximum Building Height: 15 feet 	
Zoning. §215-27 Riverfront setback.	<p>No building or structure shall be erected within 50 feet of the mean high-water line of the Hudson River. Said fifty-foot riverfront setback shall be derived by measuring the shortest perpendicular distance from any building to the mean high-water line. Where any structure permitted under the zoning cannot be located on a shallow, irregularly shaped or substandard-sized lot held in single or separate ownership, due to the riverfront setback restrictions, the Town Board may approve, by special permit pursuant to Article XVII of this chapter, a reduction in the riverfront setback, provided that no such structure may be situated closer than 20 feet to the mean high-water line. The minimum setback shall not apply to an accessory use such as boat ramp, stationary crane, bulkhead, travel lift, or similar structure, which must be located adjacent to the mean high-water line. The layout and design of any structure within 50 feet of the mean high-water line or adjacent to the mean high-water line must also be approved by the Planning Board pursuant to Article IX of this chapter.</p>	CHPE will comply with this provision.