



RIVERSIDE SOLAR, LLC

Matter No. 21-00752

900-2.25 Exhibit 24

Local Laws and Ordinances

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- Appendix 24-1 Town of Lyme Zoning Ordinance and Town of Brownville Zoning Law
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- Appendix 24-3 Town of Lyme Flood Damage Prevention Law

Acronym List

AES	The AES Corporation, Inc.
AR	Agricultural and Rural Residence District
FAA	Federal Aviation Administration
LSES	Large Scale Energy System
NFPA	National Fire Protection Association
ORES	Office of Renewable Energy Siting
USCs	Uniform Standards and Conditions
WO	Wind Overlay

Glossary Terms

Applicant

Riverside Solar, LLC, a subsidiary of The AES Corporation, Inc. (AES), the entity seeking a siting permit for the Facility from the Office of Renewable Energy Siting (ORES) under Section 94-c of the New York State Executive Law.

Facility

The proposed components to be constructed for the collection and distribution of energy for the Riverside Solar Project, which includes solar arrays, inverters, electric collection lines, and the collection substation.

Facility Site

The parcels encompassing Facility components which totals 1,168 acres in the Towns of Lyme and Brownville, Jefferson County, New York (Figure 2-1).

Exhibit 24: Local Laws and Ordinances

This Exhibit provides information required in accordance with the requirements of §900-2.25 of the Section 94-c Regulations.

Prior to compiling this exhibit, the Applicant consulted with the local municipalities regarding the local requirements applicable to the Facility. In February of 2021 the Applicant sent letters to the Town of Lyme and Brownville to consult with the local municipalities providing them with the information required by §900-1.3 of the 94-c Regulations. Following the meeting the Applicant provided each Town with a list of the applicable local ordinances, laws, resolutions, regulations, standards and other requirements of a substantive nature required for the construction and operation of the Facility, including a list of those provisions which the Applicant may need to seek waivers for. The Towns have not indicated to the Applicant that there are any other applicable laws or substantive requirements other than those identified by the Applicant in the attached correspondence and this Exhibit.

24(a) Substantive Requirements

This section identifies the local ordinances, laws, resolutions, regulations, standards, and other requirements applicable to the construction or operation of the proposed Facility that are of a substantive nature.

The proposed Facility is located within the Towns of Lyme and Brownville, Jefferson County, New York. The information presented in this exhibit is in accordance with the Town of Lyme Zoning Ordinance (2017) (See Appendix 24-1), the Town of Lyme Solar Energy Law (2019)¹ (See Appendix 24-2), the Town of Lyme Flood Damage Prevention Law (See Appendix 24-3), and the Town of Brownville Zoning Ordinance (1996) (Appendix 24-1), and the 2018 Large Scale Solar Energy amendment to the Zoning Ordinance (Town of Brownville Town Code §165-34.7. Large solar photovoltaic energy systems) (See Appendix 24-2).

The Town of Lyme's Solar Energy Law and the Town of Brownville's Large Solar Photovoltaic Energy System code both define the Facility as a Large-Scale Energy System. The Town of

¹ The Town of Lyme adopted the Solar Energy Law in December 2019 (https://www.townoflyme.com/uploads/2/0/1/2/20124871/2019end_of_year_meeting.pdf). To date, the Applicant has been unable to confirm if the Solar Energy Law has been filed with the Department of State.

Lyme's law defines a Large Scale Energy System (LSES) as "A Solar Energy System that is ground-mounted and produces energy primarily for the purpose of off-site sale or consumption" (Town of Lyme, 2019); whereas the Town of Brownville defines a LSES as "A solar photovoltaic energy system with a rated capacity larger than 35kW. A LSES is considered an accessory use of the property, if the principal purpose is (i) to provide electrical power to be consumed onsite and for sale to the general power grid" (Town of Brownville, 2018).

According to the Town of Lyme's Solar Energy Law, the Facility, which is located within the Agricultural and Rural Residence District (AR), is permitted through the issuance of a Special Use Permit. The law specifically states that "Large-Scale Solar Energy Systems are permitted within the AR Zoning District through the issuance of a Special Use Permit" (Town of Lyme, 2017; 2019).

According to the Town of Brownville's Large Solar Photovoltaic Energy System code (2018), which amended Chapter 1656 of the Town Code, the Facility, which will be the principal use on each parcel, is permitted within Agricultural and Residential Districts 1, 2 and 3 (AR-1, AR-2 and AR-3). The Facility is located within Agricultural District 2.

The substantive provisions of both the Towns laws are listed below:

Town of Lyme Zoning Ordinance with amendments as provided by Local Law #4 of 2019, Amending the Zoning Ordinance to Regulate Solar Energy Systems (Solar Law):

Article VII. Section 776. See Appendix 24-2.

- Subsection E. 1. a. – General Requirements.
- Subsection E. 2. i. Sureties/Bond
- Subsection E. 3. a. – Height and Setback.
- Subsection E. 3. b. – Prime Soils.
- Subsection E. 3. c. – Roadways.
- Subsection E. 3. d. – Collection Lines.
- Subsection E. 3. e. – Fences.
- Subsection E. 3. f. – Perimeter Screening.
- Subsection E. 3. g. – Signage.
- Subsection E. 3. h. – Glare.

- Subsection E. 3. i. – Noise.
- Subsection E. 3. j. – Access and Parking.
- Subsection E. 4. – Abandonment and Decommissioning.
- Subsection F. 1. – Sunlight.

Town of Lyme Flood Damage Prevent Law (1993)

- 5.1-2 (1) - Encroachments

Town of Brownville Large Solar Photovoltaic Energy System Code (2018):

Article III. Enactment. Section 165-34.7 See Appendix 24-2.

- Subsections 2² – Allowed Use.
- Subsection 3 – Setback Requirement Implementation.
- Subsection 4 – Setback Requirements.
- Subsection 5 – Height Requirements.
- Subsection 6 – Proximity to Infrastructure.
- Subsection 7 – Viewshed and Screening.
- Subsection 8 – Federal Aviation Administration (FAA) Requirements.
- Subsection 9 – Security Fence.³
- Subsection 10 – Emergency Shutdown/Safety.
- Subsection 11 – Lighting Protection.
- Subsection 13 – Lighting.
- Subsection 14 – Access Road.
- Subsection 15 – Collection/Transmission Lines.
- Subsection 16 – Proof of Communication.

Except as described below in Section 24(c) the Facility as proposed conforms to the above identified substantive requirements.

² Note, the Solar Law list these provisions in numerical order, whereas the Chapter 165 of the Town Code list these provisions in alphanumeric order.

³ While the procedural provisions of this section are supplanted by Section 94-c, the Facility will include security fencing as required by 94-c.

24(b) Substantive Requirements Applicable to Interconnections in Public Rights of Way

The Applicant has determined that there are no substantive requirements in the local laws or regulations applicable to the interconnection to or use of water, sewer, or telecommunication lines in public rights of way that are applicable to the Facility.

24(c) Local Substantive Requirements Applicant Requests ORES Not Apply

The 94-c regulation expressly preempts local procedural requirements, such as permits and approvals which would otherwise be required by the host municipalities for construction and operation of the Facility (i.e., special use permit). However, local substantive requirements (i.e., setbacks, height limits, lot coverage requirements) will be applied to the Facility unless ORES finds them to be unreasonably burdensome relative to requirements under 94-c.

Generally, the Applicant has designed the Facility to comply with local laws and has made design changes to the proposed Facility to bring the Facility into compliance with the substantive provisions of the Towns' local laws. For example, the Facility has been designed to comply with Town setbacks, although in some instances the setback distances are greater than those required under 94-c. For the provisions discussed below the Applicant determined that compliance with these provisions would be impracticable and could result in significant costs for no actual benefit to the community. The Applicant therefore requests the waivers listed below because, as applied to the Facility, the provisions would be unreasonably burdensome in view of the Climate Leadership and Community Protection Act ("CLCPA") targets and the environmental benefits of the proposed Facility. Exhibits 6, 17 and 19 of the Application provide an extensive overview of the Facility's environmental benefits, consistency with state energy policy, and contribution toward the CLCPA mandates; those discussions are incorporated by reference here to support waiver of the below provisions.

The Applicant requests ORES waive two provisions in the Town of Lyme. Overall, the Applicant submits that the below provisions are unreasonably burdensome in view of the CLCPA targets and environmental benefits of the proposed Facility, these provisions impose additional costs which are unnecessary and out of step with State standards. By contrast, the burdens imposed on the community if a waiver were granted for these provisions are minor to nonexistent, as described more fully below.

Town of Lyme –Solar Law (2019)

E §3 i. Noise. *Noise producing equipment such as substations and inverters shall be located to minimize noise impacts on adjacent properties. Their setback from property lines should achieve no discernable differences from existing noise levels at the property line.*

The sound from the Facility will meet the 94-c Section 900-2.8(b)(2) requirements, including the design goal of fifty-five (55) dBA Leq (8-hour) across any portion of a non-participating property⁴ and will adequately minimize noise on adjacent properties. The Facility was designed to minimize sound impacts, and inverters have been placed towards the interior of the Facility away from property lines to the maximum extent practicable. In fact, sound levels from Facility inverters are similar or lower than existing average daytime LEQ sound levels in the Facility area. See Exhibit 7 of the Application for further details on sound impacts from the Facility. The Facility has been designed to avoid and minimize sound impacts and it is not anticipated that there will be impacts related to sound because of Facility operation.

However, the Applicant is requesting a waiver of the Town of Lyme’s requirement that the Facility “achieve no discernable differences from existing noise levels at the property line” as the Town’s provision is ambiguous and difficult to monitor and enforce, which can lead to needless process during the life of the project without any benefit to the community. As explained further below, the Town’s provision is unreasonably burdensome and is contrary to the goals of the CLCPA and the needs of consumers, as such a requirement is impracticable to monitor and enforce and unrealistic for facilities to comply with. The Facility will comply with the sound design goals under 94-c which adequately minimize noise impacts from the Facility.

Demonstrating compliance with the Town’s requirement is not feasible due to the logistical challenge of quantifying “discernibility.” The Applicant has not performed pre-construction ambient sound testing at every property line in the Facility Site. To do so would be cost prohibitive and is not required by the 94-c regulations. Without pre-construction ambient

⁴ Except for portions delineated as NYS-regulated wetlands pursuant to section 900-1.3(e) and utility ROW to be demonstrated with modeled sound contours drawings and discrete sound levels at worst-case locations.

measurements at every property line in the Facility Site, determining if the Facility complies with the Town's requirement is not feasible. Even if it was possible to assign pre-construction ambient sound levels at property lines based on the Applicant's existing ambient sound surveys, determining compliance with the Town's requirement would still require the Applicant to conduct extensive and costly post construction monitoring at property lines, and the results would be uncertain given the lack of pre-construction data.

Secondly, the Town law does not define "discernible difference" and does not contain any measuring standards or timing requirements. Therefore, the provision is vague and ambiguous, and a strict reading of this requirement would mean that Facility sound levels must be always imperceptible, which is an unrealistic standard not applied to any other use in the Town. This would be extremely difficult to monitor and determining compliance with such a strict standard would be time consuming and likely inconclusive depending on the time and circumstances of any alleged violation. For example, the Facility could be out of compliance with the local law if for one minute on an abnormally quiet day (no wind, no traffic, no insect sound, etc.) someone could hear the Facility at the property line, no matter how faint. This is an unrealistic standard to apply to the Facility especially when there is no evidence that there would be any health or safety impact as a result of such an alleged violation.

The sound from the Facility will meet the 94-c requirements and will adequately minimize noise on adjacent properties. The Facility was designed to reduce sound impacts, and sound levels from Facility inverters are similar or lower than existing average ambient daytime LEQ sound levels in the Facility area. See Exhibit 7 of the Application.

Considering the Town law is ambiguous and does not define "discernible difference", that the Facility has been designed in compliance with the noise thresholds established in 94-c Section 900-2.8(b)(2), that the Facility will minimize sound impacts, and that determining compliance with the Town law is not feasible, the Applicant request ORES waive strict compliance with this provision. The design requirements in 94-c adequately minimize noise impacts from the Facility. The Uniform Standards and Conditions (USCs) are designed to avoid or minimize, to the maximum extent practicable, any potential significant adverse environmental impacts related to the siting, design, construction, and operation of the Facility, including sound. ORES has already determined appropriate noise levels for solar facilities and there is no benefit to applying the local law, considering the Facility complies with the design goals already contained in 94-c, and the fact that the local law applies to property lines not residences or other sensitive

receptors where people are likely to be present. There is no basis to impose additional property line sound limits on the Facility which ORES has already adjudged to be unnecessary. Moreover, applying local laws which conflict with the standards under 94-c creates unnecessary uncertainty for developers of renewable energy facilities and works to undermine the standards and conditions promulgated under the regulations, which is contrary to the goals of the CLCPA and the needs of consumers.

E. §2. (i) Sureties/Bond. *The applicant shall be required to provide sureties, as set forth, for the removal of the large scale solar energy system. Pursuant to the execution of the decommissioning plan, the applicant shall provide the Town with a bond in the amount of 100% of the estimate established in the decommissioning plan (adjusted 3% per year for inflation, 20 years into the future after installation) to cover the expense of removal of the system and remediation of the landscape, in the event the Town must remove the facility. The bond shall be in a form acceptable to the Town Attorney, which includes but are not limited to a letter of credit, perpetual bond, or any combination thereof. The amount shall be reviewed every three years, by the Planning Board and shall be adjusted if deemed necessary. If the bond is deemed to be adjusted, the applicant shall have 90 days from notice to provide an adjustment bond.*

In general, the decommissioning requirements in the Solar Law are largely procedural in nature, and thus preempted by 94-c. However, the surety requirements in Section 2 above, appear to contain substantive requirements which could be unworkable as applied to the Facility. Section 2 requires “a bond in the amount of 100% of the estimate established in the decommissioning plan (adjusted 3% per year for inflation, 20 years into the future after installation)” this requirement fails to adjust for salvage value. Components of solar facilities have resale value and may be sold in the wholesale market. Salvage materials involved in solar projects (steel, copper, silicon), have historically trended upward and these materials have been reused, reclaimed, or re-purposed for years. There is no evidence to suggest that these materials will not be salvageable at the time of decommissioning, and accounting for scarp value of materials is a standard decommissioning practice across the country. Moreover, these materials are relatively easy to decommission, meaning the cost to decommission the materials and obtain value is not an impediment to realizing their value. The Applicant’s decommissioning/site restoration estimate includes a 15% contingency which addresses any concerns related to potential fluctuations in salvage value, and the Applicant has committed to updating the cost

periodically which would protect against price fluctuations. Given that the components are very likely to retain value and the Applicant's estimate includes a 15% contingency to protect against fluctuations, ORES should waive the Town's requirement for a 100% estimate. Requiring a 100% estimate would cause the decommissioning estimate to overestimate costs, causing additional costs to the Facility in the form of the financial security which creates a financial disincentive with little to no actual benefit to the community. Finally, the requirement to obtain a bond in the amount of 100% of the estimate conflicts with the 94-c regulations which allows for the off-set of salvage value. Given that ORES has already determined that an off-set for salvage value is appropriate, the benefits of applying this provision are negligible. This is not the type of requirement which could be accommodated by a design change to the Facility, nor is there a particular adverse effect of waiving this requirement on the community. The Applicant will already be required to provide decommissioning financial security to protect the Towns in the unlikely event that the Facility owner does not conduct decommissioning and site restoration on its own. A cost estimate for decommissioning has been provided in Appendix 23-1. Decommissioning and Restoration Plan. There is no basis to impose additional financial burdens on the Facility by requiring more financial security than ORES has already adjudged to be unnecessary. Moreover, applying local laws which conflict with the standards under 94-c creates unnecessary uncertainty for developers of renewable energy facilities and works to undermine the standards and conditions promulgated under the regulations, which is contrary to the goals of the CLCPA and needs of consumers.

As part of the 94-c process, the Applicant has prepared a Decommissioning and Site Restoration Plan for site restoration. The Plan includes a protocol for removal of panel arrays in the event of abandonment and a net decommissioning/site restoration estimate to be allocated between the Towns based on the estimated costs associated with removal and restoration of facilities within each Town. The Applicant followed the requirements of 94-c when preparing the net decommissioning and site restoration estimate. Because the Applicant is preparing the Decommissioning and Site Restoration Plan based on 94-c requirements, which supplant the Town's local laws, the Applicant requests ORES elect to not strictly apply this regulation considering the benefits of the Facility and the directives of the CLCPA.

24(d)List of Applicable Local Substantive Requirements and Compliance Assessment

The table below presents a list of applicable local substantive requirements to the Facility and a description of how the Applicant plans to adhere to those requirements.

Table 24-1. List of Existing Applicable Substantive Requirements to the Facility and Plans to Adhere to the Requirements

Local Requirements	Facility Compliance
Town of Lyme Local Laws	
Town of Lyme Zoning Ordinance with amendments as provided by Local Law #4 of 2019, Amending the Zoning Ordinance to Regulate Solar Energy Systems (Draft Solar Law)	
<p>E. §1a. All Large-Scale Solar Energy Systems shall be designated by a NYS licensed architect or licensed engineer and installed in conformance with the applicable International Building Code, International Fire Prevention Code and National Fire Protection Association (NFPA) 70 Standards.</p>	<p>The Facility will comply with the codes as identified in this Section.</p>
<p>E. §2. (i) Sureties/Bond. The applicant shall be required to provide sureties, as set forth, for the removal of the large-scale solar energy system. Pursuant to the execution of the decommissioning plan, the applicant shall provide the Town with a bond in the amount of 100% of the estimate established in the decommissioning plan (adjusted 3% per year for inflation, 20 years into the future after installation) to cover the expense of removal of the system and remediation of the landscape, in the event the Town must remove the facility. The bond shall be in a form acceptable to the Town Attorney, which includes but are not limited to a letter of credit, perpetual bond, or any combination thereof. The amount shall be reviewed every three years, by the Planning Board and shall be adjusted if deemed necessary. If the bond is deemed to be adjusted, the applicant shall have 90 days from notice to provide an adjustment bond.</p>	<p>Riverside requests the Office elect to not apply this local requirement. See Section 24(c) (1) above.</p>

Table 24-1. List of Existing Applicable Substantive Requirements to the Facility and Plans to Adhere to the Requirements

Local Requirements	Facility Compliance
<p>E. §3a. Height and Setback. Large-Scale Solar Energy Systems shall not exceed sixteen (16) feet in height when oriented at maximum tilt. Any structure and equipment shall comply with all the minimum setbacks for principal structures established in the Town of Lyme Zoning Ordinance except that Large Scale Solar Energy System’s structures and equipment shall be located at least 60 feet from any non-participating adjoining property line. Contiguous side and rear yard setbacks can be reduced to zero feet where participating parcels adjoin one another.</p>	<p>The Facility will comply with the substantive standards as identified in this Section.</p>
<p>E. §3b. Prime soils, if drained, and soils of statewide importance that are in agricultural production are a valuable and finite resource. Proposed Large-Scale & Community Distributed solar systems shall minimize the displacement of prime soils that are in agricultural production. The site plan shall depict the location and extent of prime soils, prime soils if drained, prime soils of statewide importance, and indicated whether the parcel(s) is/are receiving an agricultural valuation. The site plan shall also depict the location and extent of current agricultural uses on the land (e.g. rotational crops, hay land, unimproved pasture, support lands, and fallow lands) the location of diversions and ditches, and areas where tile drainage has been installed.</p>	<p>The Facility will comply with the substantive standards as identified in this Section. More information regarding agricultural soils and agricultural uses of the Facility Site is included in Exhibit 15 (Agricultural Resources) of this Exhibit.</p>
<p>E. §3c. Roadways within the site shall be built along field edges and along elevation contours where practical, constructed at grade and have minimum width that complies with the National Electric Code. Roadways shall not be constructed of impervious materials and shall be designed to minimize the extent of roadways constructed and soil compaction</p>	<p>The Facility will comply with the substantive standards as identified in this Section.</p>

Table 24-1. List of Existing Applicable Substantive Requirements to the Facility and Plans to Adhere to the Requirements

Local Requirements	Facility Compliance
<p>E. §3d. Structures for overhead collection lines are to be located upon the nonagricultural areas and along field edges where possible. Electric interconnect cables and transmission lines are to be buried in agricultural fields wherever practical. Interconnect cables and transmission lines installed aboveground shall be located outside agricultural field boundaries. When above-ground cables and transmission lines must cross agricultural fields, taller structures that provide longer spanning distances and locate poles on field edges to the greatest extent practicable. All buried electric cables in cropland, hayland, and improved pasture shall have a minimum depth of 48 inches of cover. At no time is the depth of cover to be less than 24 inches below the soil surface.</p>	<p>The Facility will comply with the substantive standards as identified in this Section.</p>
<p>E. §3e. Fences. All Large-Scale Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. The type and height of fencing shall be determined by the Planning Board. Fences that enclose Large Scale Solar Energy Systems can exceed 4 feet within any required yard if reviewed and approved by the Planning Board as part of the Special Use Permit process; however, fencing shall not exceed ten feet in height/ The planning Board may require additional screening of the fencing and/or system via additional landscaping to avoid adverse aesthetic impacts.</p>	<p>The Facility will be designed comply with the substantive standards as identified in this Section. 94-c requires all mechanical equipment shall be enclosed by fencing of a minimum height of seven feet.</p>

Table 24-1. List of Existing Applicable Substantive Requirements to the Facility and Plans to Adhere to the Requirements

Local Requirements	Facility Compliance
<p>E. §3f. Perimeter Screening. All Large-Scale Solar Energy Systems shall have the least visual effect practical, as determined by the Planning Board. Based onsite specific conditions, including topography, adjacent structures, and roadways, reasonable efforts shall be made to minimize visual impacts by preserving natural vegetation, and providing landscape screening to abutting residential properties, public roads, and from public sites known to include important views or vistas, but screening should minimize the shading of solar collectors. No more than seventy-five (75) percent of the existing perimeter screening (within the 60 foot setbacks), including existing brush, trees, and vegetation may be removed in order to accommodate a solar farm unless newly proposed screening acceptable to the Planning Board is proposed and approved as part of the Special Use Permit. On sites without existing screening, new screening must be proposed, approved by the Planning Board, and installed to screen the solar field as well as appurtenant structures such as inverters, batteries, equipment shelters, storage facilities, transformers, and fencing.</p>	<p>The Facility will comply with the substantive standards as identified in this Section.</p>
<p>E. §3g. Signage. Warning signs with the owner’s contact information shall be placed on the entrance and perimeter of the fencing. Solar equipment shall not be used for displaying any advertising. All signs, flags, streamers, or similar items, both temporary and permanent, are prohibited on solar equipment except: (a) manufacturer’s or installer’s identification; (b) appropriate warning signs and placards; (c) signs that may be required by a federal agency; and (d) signs that provide a 24-hours emergency contact phone number and warn of any danger.</p>	<p>The Facility will comply with the substantive standards as identified in this Section.</p>
<p>E. §3h. Glare. Solar panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties, or roadways. Exterior surfaces of all collectors and related equipment shall have a non-reflective finish. Particular attention shall be paid to panel orientation with regard to airport runway locations, and airplane flyover/approach patterns to minimize potential glare impacts on pilots based on the Glint and Glare Analysis.</p>	<p>The Facility will comply with the substantive standards as identified in this Section.</p>

Table 24-1. List of Existing Applicable Substantive Requirements to the Facility and Plans to Adhere to the Requirements

Local Requirements	Facility Compliance
<p>E. §3i. Noise. Noise producing equipment such as substations and inverters shall be located to minimize noise impacts on adjacent properties. Their setback from property lines should achieve no discernable differences from existing noise levels at the property line.</p>	<p>Riverside requests the Office elect to not apply this local requirement. See Section 24(c) (1) above for a noise analysis of the Facility.</p>
<p>E. §3j. Access and parking. A road and parking will be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made.</p>	<p>The Facility will comply with the substantive standards as identified in this Section.</p>
<p>E. §4. Abandonment and Decommissioning – Solar Energy Systems are considered abandoned after twelve (12) months without electrical energy generation and must be removed from the property. Applications for extensions are reviewed by the Planning Board for a period of six months. The site shall be restored to as natural a condition as possible within one (1) year of removal.</p>	<p>The Facility will be designed to comply with these requirements.</p>
<p>F. §1. Pursuant to Chapter 263 of New York Town Law, all parcels within the Town of Lyme shall be permitted to enjoy access to direct sunlight.</p>	<p>The Facility will be designed to comply with these requirements.</p>
<p>Town of Lyme Flood Damage Prevention Law Local Law #2 of 1993 as amended by Local Law #3 of 2017</p>	
<p>5.1-2 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>(i) 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.</p>	<p>The Facility will be designed to comply with these requirements.</p>
<p>Town of Brownville Local Laws</p>	
<p>Town of Brownville Town Code §165-34.7. Large solar photovoltaic energy systems</p>	
<p>§165-34.7 2. Large solar photovoltaic energy systems may be allowed as a second principal use on a lot, or on a lot as the only principal use. The prohibition against two principal uses on a lot shall not apply to the systems.</p>	<p>The Facility will comply with the substantive standards as identified in this Section.</p>

Table 24-1. List of Existing Applicable Substantive Requirements to the Facility and Plans to Adhere to the Requirements

Local Requirements	Facility Compliance
<p>§165-34.7 3. It is recognized that such projects may encompass more than one property. In the event that any project encompasses more than one property, then setback requirements shall not be required from property lines of a property participating in the project.</p>	<p>The Facility will comply with the substantive standards as identified in this Section.</p>
<p>§165-34.7 4. Such systems shall be set back a minimum distance of 100 feet from any roadway or 50 feet from any side or rear line. If the solar panels face the roadway or side or rear lines, the setback distance shall be doubled.</p>	<p>The Facility will comply with the substantive standards as identified in this Section.</p>
<p>§165-34.7 5. The maximum height shall be 20 feet when tilted to full extension.</p>	<p>The Facility will be designed to comply with the substantive standards as identified in this Section.</p>
<p>§165-34.7 6. Proximity to radio, television and telephone systems. These solar systems shall not be installed in any location where the solar system operation or similar solar systems have been demonstrated to interfere with existing fixed broadcast, retransmission, or reception antennae for radio, television or wireless phone, unless such interference can be mitigated.</p>	<p>The Facility will comply with the substantive standards as identified in this Section.</p>
<p>§165-34.7 7. View sheds and screening. Ground-mounted systems shall be installed in a location and position that would minimize visibility from neighboring properties. A screening plan, to be reviewed and accepted by the one appropriate board, shall be required as part of the site plan review or special use permit review. For purposes of this section, consideration shall be given to any relevant portions of the current, amended and/or future officially recognized Town Code. In addition, adequate measures shall be taken to screen through landscaping, grading or other means to reasonably mitigate the view of solar panels and other equipment of the solar systems from roadways and neighboring residential properties.</p>	<p>While the procedural provisions of this section are supplanted by Section 94-c, the Facility will be designed to minimize visibility from neighboring properties and roadways.</p>
<p>§165-34.7 8. FAA requirements. If the proposed site is near an airport, seaplane base, or established flight zone, such solar system must meet all Federal Aviation Administration requirements.</p>	<p>The Facility will comply with the substantive standards as identified in this Section.</p>
<p>§165-34.7 9. Security fence. The Planning Board may consider whether and where security fencing is required.</p>	<p>While the procedural provisions of this section are supplanted by Section 94-c, the Facility will include security fencing as required under 94-c.</p>

Table 24-1. List of Existing Applicable Substantive Requirements to the Facility and Plans to Adhere to the Requirements

Local Requirements	Facility Compliance
<p>§165-34.7 10. Emergency shutdown/safety. The applicant shall post an emergency telephone number so that the appropriate entities may be contacted should any portion of the solar system need immediate repair or attention. This telephone number should be clearly visible on signs located on the security fence, if any, placed periodically around the perimeter.</p>	<p>The Facility will comply with the substantive standards as identified in this Section.</p>
<p>§165-34.7 11. Lightning protection. All solar systems shall have adequate lightning protection via internal lightning arrestors, surge protectors or adequate grounding.</p>	<p>The Facility will comply with the substantive standards as identified in this Section.</p>
<p>§165-34.7 12. Utility notification and approval. No solar system shall be constructed until evidence has been given to the Town Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the construction of the solar system and has agreed to an interconnection.</p>	<p>While the procedural provisions of this section are supplanted by Section 94-c, the Facility will coordinate with the interconnecting utility and will enter into any interconnection agreements as required.</p>
<p>§165-34.7 13. Lighting. No solar system under this provision shall be continually artificially lighted. Lighting shall be limited to lights as needed by solar array personnel while present at the site. Lighting to be arranged and angled to not spill onto adjacent properties.</p>	<p>The Facility will comply with the substantive standards as identified in this Section.</p>
<p>§165-34.7 14. Access road. To the greatest extent possible, existing roadways shall be used for access to the site and its improvements. In the case of constructing any roadways necessary to access the solar energy systems, they shall be constructed in a way that allows for the passage of emergency vehicles in the event of an emergency.</p>	<p>The Facility will comply with the substantive standards as identified in this Section.</p>
<p>§165-34.7 15. Collection and transmission lines shall be buried. The same may be allowed overhead but only under exceptional circumstances with special exception from the Planning Board.</p>	<p>The Facility will comply with the substantive standards as identified in this Section there are no overhead lines proposed in the Town of Brownville.</p>
<p>§165-34.7 16. Prior to issuing approval, the applicant shall also submit proof to the Planning Board that it has been in touch with local fire departments, shared information with respect to operation and maintenance of the facility's safety features and other information important for fire protection.</p>	<p>As part of the 94-c process, the Applicant has and will continue to consult with local emergency responders including local Fire Departments and share information with respect to the safety and security of the Facility.</p>

24(e) Agencies with Review, Inspection, or Certification Responsibilities

The New York State Uniform Fire Preservation and Building Code and the Energy Conservation Construction Code of New York State (Uniform Code) has limited applicability to solar facilities. Solar facilities that are not associated with a building or other structure regulated by the Uniform Code do not meet the definition of a “building” provided in Article 18 of the New York State Executive Law (§372 and §378). Connection through a utility company’s power grid is not considered a direct connection between a solar panel and a building. Therefore, the applicability of the Uniform Code to the Facility is limited and does not extend to installation or assembly of panels and power collection components of the Facility.

The Town of Lyme is qualified by the Secretary of State to review and approve building plans, inspect construction work, and certify compliance with the New York State Uniform Fire Preservation and Building Code, the Energy Conservation Construction Code of New York State, and the substantive provisions of local applicable electrical, plumbing, and building codes.

The Town of Brownville has elected Jefferson County to review and approve building plans, inspect construction work, and certify compliance with the New York State Uniform Fire Preservation and Building Code, the Energy Conservation Construction Code of New York State, and the substantive provisions of local applicable electrical, plumbing, and building codes.

The Jefferson County Code Enforcement website highlights steps the Applicant will take in order to comply with county and state regulations. Steps include filling out the required permits and plans and submitting to the County office, submitting the permit fee payment, and completing scheduled site visits to ensure Facility progress is in accordance with regulations.

The Applicant has not yet entered into agreements or made arrangements to pay costs with the Towns of Lyme or Brownville or to Jefferson County for review or approval of review, inspection or certification at the time of this filing. Costs paid to these entities are anticipated to be through application fees and host community agreements; an estimate of local permitting fees is included in Exhibit 18.

Alternately, the Applicant may request to submit the building plans to the Department of State, in order to obtain compliance with the New York State Uniform Fire Prevention and Building

Code, the Energy Conservation Construction Code of New York State, and the substantive provisions of any applicable local electrical, plumbing, or building code. In that case, the Applicant would arrange for the Department’s review, approval, inspection, and compliance certification, including any arrangements to pay for the costs for any necessary consultant services to the extent such fees are not paid through the Applicant’s application fee.

24(f) Zoning

The Facility Site within the Town of Lyme is located in the Agricultural and Rural Residential (AR) zoning district, and parts of the Facility Site are located in the Wind Overlay (WO) zoning district (Town of Lyme, 2019). The Facility Site within the Town of Brownville is located in the Agriculture Residential-2 (AR-2) zoning district (Town of Brownville, 1996). Under the Town of Lyme Zoning Code and Town of Brownville Zoning Code, Large-Scale Solar Energy Systems are permitted through the issuance of a special use permit by the Town Board in these Districts (Town of Lyme, 2019; Town of Brownville, 1996).

Table 24-2. Riverside Solar Facility Parcels and Associated Zoning District Designation

Parcel ID	Zoning Code
Town of Lyme	
62.00-2-15.1	AR
62.00-2-23.35	AR
62.00-2-36.4	AR
62.00-2-13.22	AR
62.00-2-12	AR, WO
62.00-2-9.22	AR, WO
Town of Brownville	
62.00-1-61.1	AR-2
62.00-1-62.1	AR-2
62.00-1-63	AR-2
62.00-1-7.32	AR-2
62.00-1-8.2	AR-2
62.00-1-7.31	AR-2
62.00-1-8.1	AR-2

Conclusions

In conclusion, the Applicant has generally designed the Facility to comply with local laws and has made design changes to the proposed Facility to bring it into compliance with the substantive provisions of the Towns' local laws. The Applicant requests ORES waive only two provisions in the Town of Lyme regarding noise and sureties/bonds, because compliance with these provisions would be impracticable and could result in significant costs for no actual benefit to the community, and are unreasonably burdensome in view of the CLCPA targets and environmental benefits of the proposed Facility. Under the Town of Lyme Zoning Code and Town of Brownville Zoning Code, Large-Scale Solar Energy Systems are permitted through the issuance of a special use permit by the Town Board where the Facility is located. The Facility has been designed to comply with 19 NYCRR § 900-2.25 and the USCs and consistency with the local laws and ordinances has been achieved to the maximum extent practicable.

References

Jefferson County, 2021. Jefferson County GIS Maps & Property Search.

<http://www.jeffcountymaps.com/>. Accessed February 2021.

Town of Lyme, 2017. Town of Lyme Zoning Ordinance.

https://www.townoflyme.com/uploads/2/0/1/2/20124871/lyme_zoning_2017_final.pdf.

Accessed February 2021.

Town of Lyme, 2019. Draft Solar Energy Law.

https://www.townoflyme.com/uploads/2/0/1/2/20124871/lyme_solar_energy_regs_draft_10-2-19_-_1_.pdf. Accessed February 2021.

Town of Brownville, 1996. Town of Brownville Town Code. <https://ecode360.com/BR0500>.

Accessed February 2021.

Town of Brownville, 2018. Town of Brownville's Large Solar Photovoltaic Energy System code

<https://ecode360.com/33805938?highlight=solar&searchId=690145383784620#33805938>. Accessed February 2021.