

BRIAR CREEK TOWNSHIP
COLUMBIA COUNTY, PENNSYLVANIA

ORDINANCE NO. 2-2011

AN ORDINANCE AMENDING THE BRIAR CREEK TOWNSHIP ZONING ORDINANCE TO:

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BE IT HEREBY ORDAINED AND ENACTED by the Board of Supervisors of Briar Creek Township, Columbia County, Pennsylvania by authority of and pursuant to the provisions of Act of 1968, P.L. 805, No. 247 of the General Assembly of the Commonwealth of Pennsylvania, approved July 31, 1968, as reenacted and amended, known and cited as the "Pennsylvania Municipalities Planning Code," as follows:

The Briar Creek Township Zoning Ordinance is hereby amended as follows:

~~☛~~ ITEM 1 - Add, amend and delete the following definitions in Article III:

Add:

Hydraulic Fracturing Water Withdrawal Facility: A facility immediately adjacent to a water body or stream that typically contains a submerged suction line, pumps, water main, multiple hydrants, truck loading and staging area, and water storage tanks, and which stores water on a temporary basis that is intended to be transported by vehicle to a natural gas well for the purpose of hydraulic fracturing.

Industrial Wastewater Treatment Facility: A facility not located on the same lot where the wastewater is generated which is used for treating and removing any harmful chemicals, compounds (including the flow back water and solutions used in the process of hydraulic fracturing for natural gas) nutrients, organics, solids, radionuclides or other materials prior to being transported off-site for reuse or discharged into a stream or into the soil. Such a facility typically includes a multi-bay truck loading/unloading station, skim ponds for oil/water separation, water clarifiers, sludge dewatering facilities, reverse osmosis units, evaporators, chemical feed equipment, pumps and other appurtenances.

Natural Gas Compressor Station: A facility at which natural gas passing through a pipeline is pressurized by a turbine, motor, or engine. In addition to compressing natural gas, compressor stations usually contain some type of liquid separator consisting of scrubbers and filters that capture any liquids or other undesirable particles from the natural gas in the pipeline.

Oil or Gas Well: A type of *mineral extraction* involving a bore hole drilled or being drilled for the purpose of or to be used for producing, extracting or injecting any gas, petroleum or other liquid related to oil or gas production or storage, including brine disposal, but excluding bore holes drilled to produce potable water to be used as such. The term *well* does not include a bore hole drilled or being drilled for the purpose of or to be used for systems of monitoring, producing or extracting gas from solid waste disposal facilities, as long as the wells are subject to the act of July 7, 1980 (P.L. 380, No. 97), known as the Solid Waste Management Act, and do not penetrate a workable coal seam.

Solar Collector: A freestanding or fixed device, or combination of devices, structures, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy.

Solar Collector, Accessory: A freestanding or fixed device, or combination of devices, structures, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy that contributes significantly to a structure's energy supply and which is sized and intended to be used to generate electricity for the principal structure to which it is accessory.

Solar Energy Storage Facility: Equipment consisting of containers, heat exchangers, piping, and other transfer mechanisms (including fluids, gases, or solids), controls, and related structural support for transporting and storing collected energy (from solar energy systems), including structural elements designed for use in passive solar energy systems.

Solar Power Generation, Commercial: A facility where one (1) or more solar collectors and/or other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities are located and are used for the generation of electricity which is sold on the open market.

Wind Turbine Generator, Accessory: A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any, and which is sized and intended to be used to generate electricity primarily for the principal structure to which it is accessory.

Amend to read as follows:

Commercial Communication Device: Any structure or equipment which is intended for commercial or governmental use in transmitting or receiving television, radio, telephone or other electronic communications, including internal or agency communications, but excluding the following:

- A. Industrial, scientific and medical equipment as regulated by the Federal Communications Commission in 47 CFR 18.
- B. Military and government radar antennas and associated communication towers used for navigational purposes as regulated by 47 CFR 87.
- C. Amateur (ham) and citizen band transmitting and receiving antennas and associated communication towers as regulated by 47 CFR 97 and 47 CFR 95.
- D. Radio transceivers normally hand-held or installed in a vehicle, such as an automobile, truck, trailer or water craft.
- E. A radio frequency machine which is designated and marketed as a consumer product, such as auditory assistance devices, biomedical telemetry devices, carrier current systems, Class A or B digital devices, field disturbance sensors, perimeter protection systems, power line carrier systems, microwave ovens or radio controlled devices regulated by 47 CFR 15.
- F. Privately owned antennas for receiving commercial television or radio serving a dwelling.
- G. Operation on the AM or FM radio broadcast band using an extremely low powered device covered under 47 CFR 15 of the Federal Communications Commission (FCC), which does not require an FCC license, and the antenna for which does not exceed fifty (50) feet in height.

Delete:

Treatment Center/Clinic: A use (other than a detention facility or a permitted accessory use in a hospital) providing housing facilities for persons who need specialized housing, treatment and/or counseling for stays in most cases of less than one (1) year and who need such facilities because of:

- A. Chronic abuse of or addiction to alcohol and/or a controlled substance, or
- B. A type of mental illness or other behavior that could cause a person to be a threat to the physical safety of others

☛ ITEM 2 - Make the following changes in the noted Schedule of Uses in Article IV and make the associated changes in the Table of Uses Permitted by District in Article IV:

Add *oil and gas wells* to the list of conditional uses in the A Agricultural District and OS Open Space District.

Add *industrial wastewater treatment facilities* to the list of conditional uses in the I Industrial District.

Add *hydraulic fracturing water withdrawal facilities* to the list of principal permitted uses in the SR Susquehanna River District.

Add *natural gas compressor stations* to the list of conditional uses in the A Agricultural District

Add *solar power generation, commercial* to the list of conditional uses in the A Agricultural District.

Delete *treatment centers/clinics* from the list of conditional uses in the C Commercial District.

Add *wind turbine generators, accessory* and *solar collectors, accessory* to the accessory uses in all Districts except the SR Susquehanna River District.

☛ ITEM 3 - Add the following §503.13:

503.13 Wind Turbine Generators, Accessory

An accessory wind turbine generator is a wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any, and which is sized and intended to be used to generate electricity for the principal structure to which it is accessory. Accessory wind turbine generators are permitted in all districts only in compliance with the following and other applicable standards of this Ordinance:

A. Height - The applicant shall demonstrate that the accessory wind turbine generator and support structure is no higher than recommended by the manufacturer's standards.

B. Setback

1. No part of the wind turbine generator structure shall be located less than 1.1 times the total height of the wind turbine from property lines and public road rights-of-way as measured from the highest point of the rotor plane or support structure, whichever is higher.
2. Guy wire anchors shall not extend closer than ten (10) feet to any property line or road-right-of-way.

C. Uniform Construction Code; Manufacturer's Standards

1. Applications for accessory wind turbine generators shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings, documenting compliance with the Uniform Construction Code.
2. The generator and support structure shall be installed in accord with all Uniform Construction Code and manufacturer requirements.
3. Prior to the issuance of a certificate of use by the Zoning officer the applicant shall provide certification from a Pennsylvania Registered Professional Engineer that the generator and support structure have been installed in accord with all Uniform Construction Code and manufacturer requirements. If deemed necessary by the Zoning Officer, the Zoning Officer may require certification from a registered professional engineer or a representative of the manufacturer.

D. Climb Prevention/Locks/Fence

1. Wind turbines shall not be climbable up to fifteen (15) feet above ground surface.
2. All access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent access by non-authorized persons.

E. Noise and Shadow Flicker

1. Audible sound from an accessory wind turbine generator shall comply with §701.6 of this Ordinance.
2. Best efforts shall be used to minimize shadow flicker to any occupied building on any other parcel.
3. For the purposes of this Subsection E, *occupied building* shall mean a residence, school, hospital, church, public library or other building used for public gathering that is occupied or in use when the permit application is submitted.

F. Color and Lighting: FAA - Accessory wind turbine generators and support structures, including rotors, shall be a non-obtrusive color such as white, off-white or gray. Wind turbines shall comply with all applicable Federal Aviation Administration (FAA) and PA DOT Bureau of Aviation regulations. No wind turbine may be artificially lighted, except as required by FAA requirements.

G. Site Plan - A plot plan shall be provided to document all required setbacks.

~~EX~~ ITEM 4 - Add the following §503.14:

503.14 Solar Collectors, Accessory

An accessory solar collector is a freestanding or fixed device, or combination of devices, structures, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy that contributes significantly to a structure's energy supply and which is sized and intended to be used to generate electricity for the principal structure to which it is accessory.

- A. Districts: Standards - Accessory solar collectors and associated energy storage facilities are permitted in all districts only in compliance with this §503.14 and other applicable standards of this Ordinance.
- B. Excess Electricity - Accessory solar collectors shall provide power for the principal use and/or accessory use of the property on which it is located and shall not be used for the generation of power for the sale of energy to other users, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time to the local utility company.
- C. Mounting - A solar energy system may be roof mounted or ground mounted.
- D. Height
 1. Roof Mounted - A roof mounted system may be mounted on a principal building or accessory building. A roof mounted system whether mounted on the principal building or accessory building, shall not exceed the maximum building height or accessory building height specified for the underlying zoning district.
 2. Freestanding - A freestanding system shall not exceed the maximum building height for accessory buildings.
- E. Setback
 1. Roof Mounted - In no instance shall any part of the solar energy system extend beyond the edge of the roof.
 2. Freestanding - Freestanding solar collectors shall comply with the setbacks specified for accessory structures in the underlying zoning district.
- F. Mechanical Equipment - Mechanical equipment shall comply with the setbacks specified for accessory structures in the underlying zoning district and shall be screened from any adjacent property.
- G. Power Lines - All power transmission lines from a freestanding solar energy system to any building or other structure shall be located underground.
- H. Uniform Construction Code: Manufacturer's Standards - The system shall be installed in accord with Uniform Construction Code and manufacturer's standards.

- I. Removal - The solar collectors and all associated equipment and facilities shall be immediately removed when it is no longer in service and failure to do so shall constitute a zoning violation.

ITEM 5 - Add the following §817:

817 Industrial Wastewater Treatment Facilities and Hydraulic Fracturing Water Withdrawal Facilities

Industrial wastewater treatment facilities and hydraulic fracturing water withdrawal facilities (referred to as *facilities*) shall be allowed only in those districts as specified in the Schedule of Uses. In addition to the performance standards in §701 and all other applicable standards of this Ordinance, the requirements of this §817 shall apply.

817.1 Requirements for Industrial Wastewater Treatment Facilities

Industrial wastewater treatment facilities shall comply with the following requirements:

- A. Setbacks - The following setbacks shall be maintained for the industrial wastewater treatment facilities and any truck parking or staging areas. Ancillary facilities such as offices, employee parking, and accessory structures shall comply with the buffer requirements in §817.1.B.
1. Property Lines, Road rights-of-Way - Two hundred (200) feet to adjoining properties and public road rights-of-way.
 2. Residential Structures - Three hundred (300) feet to any existing residential structure not located on the project parcel.
 3. Water Bodies - Two hundred (200) feet to any body of water, perennial or intermittent stream, or wetland. This shall not apply to any required discharge or intake structures or facilities at the receiving stream or water supply.
- B. Buffer
1. An undisturbed area of not less than fifty (50) feet in width shall be maintained along all property lines and road rights-of-way to provide a buffer and shall not be used for parking, storage or any other purpose except landscaping and crossing of access roads and required utilities and discharge/intake lines. In determining the type and extent of the buffer required, the Township shall take into consideration the design of the project structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.
 2. Any required landscaped buffer may be installed in the setback area, and shall consist of trees, shrubbery and other vegetation and shall be a minimum of twenty-five (25) feet wide.
 3. Design details of buffers shall be included on the site plan, and buffers shall be considered improvements for the purposes of guaranteeing installation in accord with the requirements for land developments in the Subdivision and Land Development Ordinance.
 4. It shall be the responsibility of the applicant and/or operator to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.
- C. Access Routes; Road Conditions - The Applicant shall provide a map showing the public roads in the Township proposed to be used to access the facility and provide an evaluation of the condition of any Township road which will be used and the potential damage which may occur from such use.
- 817.2 Requirements for Industrial Wastewater Treatment and Hydraulic Fracturing Water Withdrawal Facilities**
- A. Parking and Staging Areas - Adequate vehicle parking and staging areas for all facilities shall be provided on site to prevent parking or staging on any public road right-of-way.
 - B. Local, State and Federal Regulations - The facilities shall comply with all applicable local, state and federal laws and rules and regulations. No zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations.

C. Informational Requirements

1. Application Information - The applicant and/or operator for all facilities shall provide the information required by this §817.4, all other application information required by this Ordinance, and all other necessary information to enable the Township to determine compliance with this Ordinance.
 2. DEP Application Information - A copy of all applications and information required by the applicable Pennsylvania Department of Environmental Protection (DEP) Rules and Regulations.
 3. Conditions - In the case of industrial wastewater treatment facilities, the findings of the Township based on this information shall serve as a basis for the establishment of conditions of approval in accord with §1108.4 of this Ordinance and §603(c)(2) of the Pennsylvania Municipalities Planning Code.
- D. Reporting Requirements - For any facility approved by the Township, the operator shall submit to the Township copies of all DEP-required or DEP-issued documents and reports associated with the operation, within fifteen (15) days of the date of the document or report.

817.3 Review Fees

The Applicant shall pay all professional costs incurred by the Township for review of technical aspects of the proposal, and shall deposit with the Township an amount deemed adequate by the Township to cover the anticipated costs. Should the review costs exceed the deposit, an additional assessment shall be made. If the deposit exceeds the cost, the balance shall be returned to the Applicant. No approval shall become effective until all costs have been paid by the Applicant.

ITEM 6 - Amend §825 to read as follows:

825 Mineral Extraction

In addition to other applicable standards of this Ordinance, this §825 shall apply to mineral extraction and oil and gas well operations.

825.1 Findings

The Pennsylvania Municipalities Planning Code clearly recognizes mineral extraction as a lawful use. Along with other community effects, such uses can have impacts on water supply sources and are governed by state statutes that specify replacement and restoration of affected water supplies. Planning Code Section 603(l) states that *zoning ordinances shall provide for the reasonable development of minerals in each municipality*. The Code definition of minerals is: *Any aggregate or mass of mineral matter, whether or no coherent. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous coal, coal refuse, peat and crude oil and natural gas*. The Code, at Section 603(b) allows zoning ordinances to regulate mineral extraction, but only to the extent that such uses are not regulated by the state Surface Mining Conservation and Reclamation Act, the Noncoal Surface Mining Conservation and Reclamation Act, and the Oil and Gas Act.

825.2 Intent and Exemption

- A. Intent - The intent of this section is to ensure the Township is supplied with all necessary information for making an informed decision about the proposed mineral extraction and, in the case of conditional uses, to establish the foundation for any conditions required to protect the public health, safety and general welfare.
- B. Oil and Gas Wells: Horizontal Capture of Natural Gas - Oil and gas wells shall comply with this §825 and the other applicable requirements of this Ordinance. However, the horizontal capture of natural gas or oil under the surface of a property where no surface disturbance is involved on the horizontal capture property is exempt from regulation by this Zoning Ordinance.

825.3 Use Classification: Mineral Extraction, Minor: Mineral Processing a Separate Use

- A. Use Classification - Mineral extraction, mineral extraction, minor, and oil and gas wells shall be permitted only in those Districts as listed in the Schedule of Uses.
- B. Mineral Extraction, Minor - The intent of this section is to permit mineral extraction operations limited in area, duration and

mechanical operations.

1. Extent of Operation - Mineral extraction operations with an open face of ten thousand (10,000) square feet or less which will not result in a total disturbed area of more than two (2) acres on any one parcel over the life of the operation, and which do not involve on-site screening, washing, crushing and grading, and/or any mineral processing or the use of manufacturing equipment, shall be hereinafter referred to as *mineral extraction, minor*.
2. Duration - The duration of the minor mineral extraction process shall not exceed one-hundred eighty (180) days and reclamation of the entire site shall be completed within one (1) year of the issuance of the zoning use permit.
3. Subdivision - The subdivision of a parcel to qualify for additional mineral extraction, minor uses shall not be permitted.
4. Plan Exemption - Mineral extraction, minor shall be exempt from the reporting requirements of §825.7; however, said operations shall comply with the other standards of this §825.
5. Oil and Gas Wells - No oil or gas well shall be considered mineral extraction, minor.

C. Mineral Processing (See also §826.)

1. Separate and Distinct Use; Conditional Use in Specified District - Any use which involves the refinement of minerals by the removal of impurities, reduction in size, transformation in state, or other means to specifications for sale or use, and the use of minerals in any manufacturing process such as, but not limited to, concrete or cement batching plants, asphalt plants and manufacture of concrete and clay products, shall be considered *mineral processing*, a separate and distinct use regulated by this Zoning Ordinance.
2. Incidental with Extraction Operation - This shall not preclude the incidental screening, washing, crushing and grading of materials originating on the site as part of a mineral extraction operation.

§25.4 Standards

In addition to the performance standards in §701 and all other applicable standards of this Ordinance which are not preempted by state statute, mineral extraction, mineral extraction, minor, and oil and gas wells shall comply with the following:

- A. Oil and Gas Wells - In addition to the other standards in this §825.4.A, the following shall apply to oil and gas wells.
 1. A minimum parcel size of twenty (20) acres shall be required.
 2. Multiple wells may be permitted on one (1) drilling pad.
 3. The operator shall have testing conducted by a certified laboratory to determine the concentration in drilling and fracturing liquid of all chemicals and other hazardous substances which may be contained therein, report the results to the Township, and dispose of all such liquid in accord with state and federal requirements. Such testing shall be conducted at such frequency as necessary to assure proper disposal.
- B. Setback - A setback of one hundred (100) feet shall be maintained between any disturbed area associated with any mineral extraction, mineral extraction, minor or oil and gas well operation and adjoining properties and public road rights-of-way.
- C. Undisturbed Buffer - The required setback areas shall be undisturbed to provide a buffer and shall not be used for parking, storage or any other purpose associated with the operation except landscaping and crossing of access roads.
- D. Conditional Use Buffers - In determining the type and extent of the buffer required for conditional uses, the Township shall take into consideration the design of any project activities and/or structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.
 1. If required, the landscaped buffer may be installed in the setback area, and shall consist of trees, shrubbery and other vegetation and shall be a minimum of twenty-five (25) feet wide.
 2. Buffers shall be designed in accord with §701.1 of this Ordinance and the design details shall be included on the site plan. Buffers shall be considered improvements for the purposes of guaranteeing installation in accord with the

requirements for land developments in the Township Subdivision and Land Development Ordinance.

3. It shall be the responsibility of the applicant and/or operator to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.
- E. Access Routes; Road Conditions - The Applicant shall provide a map showing the public roads in the Township proposed to be used to access the operation and provide an evaluation of the condition of any Township road which will be used and the potential damage which may occur from such use. The Applicant shall also comply with the Township road bonding requirements.
- F. Conditions of Approval - If the Township determines that the standards in §701 which are not pre-empted are not adequate for a conditional use, the Board of Supervisors shall attach such other conditions deemed necessary to protect the public health, safety and welfare, provided the conditions do not include requirements which are preempted by state statute. Such conditions imposed by the Board of Supervisors may be related to hours of operation, more stringent noise control, outdoor operations and storage, lighting and glare, stormwater management, security, and other necessary safeguards.

825.5 Local, State and Federal Regulations

Mineral extraction, mineral extraction, minor and oil and gas well operations shall comply with all applicable local, state and federal laws and rules and regulations. No zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations. Applicable laws and rules and regulations include, but are not limited to the Noncoal Surface Mining Conservation and Reclamation Act and the Clean Streams Law.

825.6 Informational Requirements

The applicant shall provide:

- A. Township Application Information - The applicant shall, at a minimum, provide the information required by this Zoning Ordinance and the information required for land developments in the Subdivision and Land Development Ordinance. In addition the applicant shall submit all other information required to enable the Township to assess the environmental, community and other public health, safety and welfare effects of the proposed operation. The findings of the Township based on this information shall serve as a basis for the establishment of conditions of approval in accord with this Ordinance and §603(c)(2) of the Pennsylvania Municipalities Planning Code.
- B. DEP Application Information - A copy of all applications and information required by the applicable Pennsylvania Department of Environmental Protection Rules (DEP) Rules and Regulations.

825.7 Reporting Requirements

For any mineral extraction operation approved by the Township, the operator shall submit to the Township copies of all DEP-required or DEP-issued documents and reports associated with the operation, within fifteen (15) days of the date of the document or report.

825.8 Expansion of Nonconforming Mineral Extraction Operations

Mineral extraction operations which are nonconforming by location in a zoning district where such operations are not allowed by the Schedule of Uses may expand to the limits of the DEP permit in effect at the time the operation became nonconforming. Any such expansion shall comply with the requirements of this §825.

825.9 Review Fees

The Applicant shall pay all professional costs incurred by the Township for review of technical aspects of the proposal, and shall deposit with the Township an amount deemed adequate by the Township to cover the anticipated costs. Should the review costs exceed the deposit, an additional assessment shall be made. If the deposit exceeds the cost, the balance shall be returned to the Applicant. No approval shall become effective until all costs have been paid by the Applicant.

ITEM 7 - Add the following §826:

826 Mineral Processing

Mineral processing is considered a conditional use. In addition to the performance standards in §701 and all other applicable standards of this Ordinance, the requirements of this §826 shall apply.

826.1 Location Requirements

Mineral processing operations shall comply with the following location requirements:

A. Setbacks - The following setbacks shall be maintained for any mineral processing operation:

1. Property Lines, Road rights-of-Way - Two hundred (200) feet to adjoining properties and public road rights-of-way.
2. Residential Structures - Three hundred (300) feet to any existing residential structure not located on the project parcel.
3. Water Bodies - Two hundred (200) feet to any body of water, perennial or intermittent stream, or wetland.

B. Buffer

1. An undisturbed area of not less than fifty (50) feet in width shall be maintained along all property lines and road rights-of-way to provide a buffer and shall not be used for parking, storage or any other purpose except landscaping and crossing of access roads. In determining the type and extent of the buffer required, the Township shall take into consideration the design of the project structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.
2. Any required landscaped buffer may be installed in the setback area, and shall consist of trees, shrubbery and other vegetation and shall be a minimum of twenty-five (25) feet wide.
3. Design details of buffers shall be included on the site plan, and buffers shall be considered improvements for the purposes of guaranteeing installation in accord with the requirements for land developments in the Subdivision and Land Development Ordinance.
4. It shall be the responsibility of the applicant and/or operator to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.

826.2 Local, State and Federal Regulations

All operations shall comply with all applicable local, state and federal laws and rules and regulations. No zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations.

826.3 Informational Requirements

The applicant shall provide the information required by this §826.3 and all other necessary information to enable the Township to assess the environmental, community and other public health, safety and welfare effects of the proposed operation. The findings of the Township based on this information shall serve as a basis for the establishment of conditions of approval in accord with §1208.4 of this Ordinance and §603(c)(2) of the Pennsylvania Municipalities Planning Code. The Applicant shall provide the following:

- A. Application Information - The information required by this §826, §1202.3,C, and all other necessary information to enable the Township to assess compliance with this Ordinance.
- B. DEP Application Information - A copy of all applications and information required by the applicable Pennsylvania Department of Environmental Protection Rules (DEP) Rules and Regulations.

826.4 Reporting Requirements

For any mineral processing operation approved by the Township, the operator shall submit to the Township copies of all DEP-required or DEP-issued documents and reports associated with the operation, within fifteen (15) days of the date of the document or report.

826.5 Review Fees

The Applicant shall pay all professional costs incurred by the Township for review of technical aspects of the proposal, and shall deposit with the Township an amount deemed adequate by the Township to cover the anticipated costs. Should the review costs exceed the deposit, an additional assessment shall be made. If the deposit exceeds the cost, the balance shall be returned to the Applicant. No approval shall become effective until all costs have been paid by the Applicant.

ITEM 8 - Add the following §827:

827 Natural Gas Compressor Stations

Natural gas compressor stations (referred to as *facilities*) shall be allowed only in those districts as specified in the Schedule of Uses. In addition to the performance standards in §701 and all other applicable standards of this Ordinance, the requirements of this §827 shall apply.

827.1 Location Requirements

The facilities shall comply with the following location requirements:

- A. Building Noise - All compressors and associated mechanical equipment shall be located within a fully enclosed building with soundproofing and blow down silencers and mufflers adequate to comply with the noise levels established by §701.6. The standards in §701.6. or as otherwise established as a condition of approval. In any case, the operation of the equipment shall not create any noise that causes the exterior noise level to exceed the pre-development ambient noise levels as measured within three hundred (300) feet of the compressor station building(s). The applicant and/or operator shall be responsible for establishing and reporting to the Township the pre-development ambient noise level prior to the issuance of the zoning permit for the station.
- B. Setbacks - The following setbacks shall be maintained:
 1. Property Lines, Road rights-of-Way - Two hundred (200) feet to adjoining properties and public road rights-of-way.
 2. Residential Structures - Three hundred (300) feet to any existing residential structure not located on the project parcel.
 3. Water Bodies - Two hundred (200) feet to any body of water, perennial or intermittent stream, or wetland.
- C. Buffer
 1. An undisturbed area of not less than fifty (50) feet in width shall be maintained along all property lines and road rights-of-way to provide a buffer and shall not be used for parking, storage or any other purpose except landscaping and crossing of access roads and required utilities and discharge/intake lines. In determining the type and extent of the buffer required, the Township shall take into consideration the design of the project structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.
 2. Any required landscaped buffer may be installed in the setback area, and shall consist of trees, shrubbery and other vegetation and shall be a minimum of twenty-five (25) feet wide.
 3. Design details of buffers shall be included on the site plan, and buffers shall be considered improvements for the purposes of guaranteeing installation in accord with the requirements for land developments in the Subdivision and Land Development Ordinance.
 4. It shall be the responsibility of the applicant and/or operator to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.
- C. Access Routes; Road Conditions - The Applicant shall provide a map showing the public roads in the Township proposed to be used to access the facility and provide an evaluation of the condition of any Township road which will be used and the potential damage which may occur from such use.

827.2 Local, State and Federal Regulations

All operations shall comply with all applicable local, state and federal laws and rules and regulations. No zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations.

827.3 Informational Requirements

The applicant shall provide the information required by this §827.3 and all other necessary information to enable the Township to assess the environmental, community and other public health, safety and welfare effects of the proposed operation. The findings of the Township based on this information shall serve as a basis for the establishment of conditions of approval in accord with §1108.4 of this Ordinance and §603(c)(2) of the Pennsylvania Municipalities Planning Code. The Applicant shall provide

the following:

- A. Application Information - The information required by this §827, all required application information, and all other necessary information to enable the Township to assess compliance with this Ordinance.
- B. DEP Application Information - A copy of all applications and information required by the applicable Pennsylvania Department of Environmental Protection Rules (DEP) Rules and Regulations.

827.4 Reporting Requirements

For any facility approved by the Township, the operator shall submit to the Township copies of all DEP-required or DEP-issued documents and reports associated with the operation, within fifteen (15) days of the date of the document or report.

827.5 Review Fees

The Applicant shall pay all professional costs incurred by the Township for review of technical aspects of the proposal, and shall deposit with the Township an amount deemed adequate by the Township to cover the anticipated costs. Should the review costs exceed the deposit, an additional assessment shall be made. If the deposit exceeds the cost, the balance shall be returned to the Applicant. No approval shall become effective until all costs have been paid by the Applicant.

ITEM 9 - Add the following §847:

847 Solar Power Generation, Commercial

In addition to all other applicable standards in this Ordinance, the following regulations shall apply to commercial solar power generation facilities which shall be permitted only in the districts as provided by the Schedule of Uses.

847.1 Purposes

To accommodate the need for solar power facilities while regulating their location and number in the Township in recognition of the need to protect the public health, safety and welfare.

847.2 Permits; Use Regulations

- A. Permits - A permit shall be required for every solar power facility installed in the Township.
- B. Associated Use - All other uses ancillary to the solar power facility (including a business office, maintenance depot, etc., greater than 1,000 sq. ft.) are prohibited from the solar power facility, unless otherwise permitted in the zoning district in which the solar power facility is located. This shall not prohibit the installation as accessory structures of equipment containers not intended for human occupancy to house only equipment necessary for the operation of the solar power facility.
- C. Solar Power Facility as a Second Principal Use - A solar power facility shall be permitted on a property with an existing use subject to the following land development standards:
 - 1. The minimum lot area, minimum setbacks and maximum height required by this Ordinance for the solar power facility shall apply, and the land remaining for accommodation of the existing principal use(s) on the lot shall also continue to comply with the minimum lot area, density and other requirements.
 - 2. The vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.
 - 3. The applicant shall present documentation that the owner of the property has granted an easement or other legal interest for the land for the proposed solar power facility and that vehicular access is provided to the solar power facility.

847.3 Standards and Design

- A. Height - Solar collectors shall not exceed the principal structure height limitations for the underlying zoning district.
- B. Parcel Size; Setbacks; Separate Parcel - If the parcel on which the solar power facility is a separate and distinct parcel or if the parcel is leased, the zoning district minimum lot size shall apply and in all cases, the lot shall be of such size that all required setbacks are satisfied to the property line and/or lease line. The setback solar collectors, all structures, equipment containers and any associated mechanical facilities shall comply with setback requirements for principal structures of the

underlying zoning district.

- C. Fencing - A fence may be required around the facility or portions of the facility for safety reasons.
- D. Landscaping - Landscaping may be required to screen as much of the solar power facility ground features as possible, the fence surrounding the support structure, and any other ground level features (such as a building), and in general buffer the solar power facility ground features from neighboring properties. The Township may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if the same achieves the same degree of screening as the required landscaping.
- E. Licenses: Other Regulations: Insurance - The applicant must demonstrate that it has obtained the required licenses from governing state and federal agencies, and agreement from the local electric utility. The applicant shall also document compliance with all applicable state and federal regulations. The applicant shall submit the name, address and emergency telephone number for the operator of the solar power facility; and a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the solar power facility.
- F. Access: Required Parking - Access to the solar power facility shall be provided by means of a public street or easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with a gravel or better surface for its entire length. If the solar power facility site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of required parking spaces shall equal the number of people on the largest shift.
- G. Communications Interference - The applicant shall document that the radio, television, telephone or reception of similar signals for nearby properties will not be disturbed or diminished, and this may be accomplished by remedial measures instituted by the solar power facility developer.
- H. Glare - The applicant shall provide details about anticipated glare from the facility, including the time of day, time of year and direction of peak glare periods and document how potential nuisances to area properties and on public roads will be controlled.
- I. Historic Structures - A solar power facility shall not be located within five-hundred (500) feet of any structure listed on any public historic register.
- J. Standards: Certification - The design of the solar power facility shall conform to applicable industry standards, including those of the American National Standards Institute. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories or other similar certifying organizations. The operator shall repair, maintain and replace the solar collectors and associated equipment in like manner as needed to keep the facility in good repair and operating condition.
- K. Uniform Construction Code - To the extent applicable, the solar power facility shall comply with the Pennsylvania Uniform Construction Code.
- L. Electrical Components - All electrical components of the solar power facility shall conform to relevant and applicable local, state and national codes, and relevant and applicable international standards.
- M. Warnings - A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten (ten) feet from the ground.
- N. Signs - No advertising material or signs other than warning, manufacturer and equipment information or indication of ownership shall be allowed on any equipment or structures.
- O. Transmission and Power Lines - On-site transmission and power lines shall, to the greatest extent possible, be placed underground.
- P. Stray Voltage/Electromagnetic Fields (EMF) - The operator shall use good industry practices to minimize the impact, if any, of stray voltage and/or EMF.

Q. Emergency Services - The applicant shall provide details about any fire suppression system installed in any accessory structure or equipment container associated with the solar power facility. Upon request, the applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the solar power facility.

R. Site Plan - A full site plan shall be required for all solar power facility sites, showing the solar power facility, fencing, screening, buffers, access, and all other items required by this Ordinance.

847.4 Public Inquiries and Complaints

The solar power facility owner and operator shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project, and the solar power facility owner and operator shall make reasonable efforts to respond to the public's inquiries and complaints.

847.5 Decommissioning

- A. The solar power facility owner and operator shall, at its own expense, complete decommissioning of the solar power facility, or individual components, within (12) twelve months after the end of the useful life of the solar power facility or individual components. The solar power facility or individual components shall be presumed to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.
- B. Decommissioning shall include removal of collectors, buildings, cabling, electrical components, roads, foundations to a depth of thirty-six (36) inches, and any other associated facilities.
- C. Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.
- D. An independent and certified Professional Engineer shall be retained to estimate the total cost of decommissioning (*decommissioning costs*) without regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment (*net decommissioning costs*). Said estimates shall be submitted to the Township after the first year of operation and every fifth year thereafter.
- E. The solar power facility owner or operator, prior to the issuance of a zoning permit, shall provide a financial security bond with the Township as payee in an amount approved by the Board of Supervisors, but not less than \$50,000, from a company and in a form and content acceptable to the Board of Supervisors, to insure the decommissioning within one hundred eighty (180) days of the expiration of the license or lease and/or cessation of use. The bond shall remain in place for as long as the facilities exist at the site.
- F. Decommissioning funds may be in the form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance as may be acceptable to the Township.
- G. If the solar power facility owner or operator fails to complete decommissioning within the prescribed time period, then the landowner shall have eighty (80) days to complete decommissioning.
- H. If neither the solar power facility owner or operator, nor the landowner complete decommissioning within the prescribed periods, then the Township may take such measures as necessary to complete decommissioning. The entry into the record and submission of evidence of a participating landowner agreement to the Township shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that the Township may take such action as necessary to implement the decommissioning plan.
- I. The escrow agent shall release the decommissioning funds when the solar power facility owner or operator has demonstrated and the Township concurs that decommissioning has been satisfactorily completed, or upon written approval of the Township in order to implement the decommissioning plan.

847.6 Review Fees

The Applicant shall pay all professional costs incurred by the Township for review of technical aspects of the proposal, and shall deposit with the Township an amount deemed adequate by the Township to cover the anticipated costs. Should the review costs exceed the deposit, an additional assessment shall be made. If the deposit exceeds the cost, the balance shall be returned to the Applicant. No approval shall become effective until all costs have been paid by the Applicant.

ITEM 10 - Delete §853 - Treatment Centers/Clinics, Medical Offices, and Health Facilities in its entirety and mark §853 *Reserved*.

SEVERABILITY

Should any section, subsection, clause, provision or other portion of this Ordinance be declared invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance; the Board of Supervisors having adopted this Ordinance as if such invalid portions had not been included therein.

EFFECTIVE DATE

This Ordinance shall become effective immediately upon adoption.

BE IT HEREBY ENACTED AND ORDAINED this 24TH day of MARCH, 2011 by the Board of Supervisors of Briar Creek Township, Columbia County, Pennsylvania to become effective immediately.

May Little
Supervisor

[Signature]
Supervisor

[Signature]
Supervisor

ATTEST:

Jean Rothberg
Secretary