CHAPTER 3

SUPPLEMENTARY REGULATIONS

SECTION:

9-3- 1: Intent; Prohibited Uses
9-3- 2: Public Access Requirements
9-3- 3: Lots Of Record
9-3- 4: Projections Into Yards
9-3- 5: Nonconforming Uses
9-3- 6: Special Provisions For Single-Family Attached Dwellings (SFAD)
9-3- 7: Special Provisions For Manufactured Homes
9-3- 8: Accessory Dwelling Units
9-3- 9: Special Provisions For Temporary On Site Rock Crushing For On Site Construction And Maintenance
9-3-10: Farm Animals In Nonagricultural Zones

9-3-1: **INTENT; PROHIBITED USES:** The provisions of this chapter shall be subject to the general regulations of this title and to the special provisions and exceptions in this chapter so as to secure the intent of this title. In all cases of administration and enforcement of this title for which no other specific provisions are made in this chapter and other provisions herein, the planning and zoning commission shall provide for the same by order, resolution, or the adoption of a rule, regulation or bylaw, which provision shall be in accord with and consistent with the objectives and standards of this title. Uses not specified within zoning districts are prohibited unless determined by the planning and zoning commission or its authorized representatives to be similar in nature to those specified. (Ord. 281-07, 9-4-2007)

9-3-2: **PUBLIC ACCESS REQUIREMENTS:** For the purpose of ensuring orderly development and to provide adequate access for firefighting equipment and other services to all buildings, no residence or commercial building shall be erected or moved onto any lot, tract, or parcel of land in any zoning district adopted under the provisions of

this title unless said lot, tract, or parcel of land has thirty feet (30') of frontage on a public right of way and has reasonably efficient access thereto for vehicular traffic and has been legally subdivided; and provided further, that a building permit has been issued for construction of a residence on a private easement where, in the opinion of the planning and zoning commission, application of the international fire code has been reasonably met. (Ord. 281-07, 9-4-2007; amd. 2010 Code)

9-3-3: **LOTS OF RECORD:** Any single lot or parcel of land which was of record and a legal lot at the time of adoption of the original zoning ordinance of the city (August 5, 1972, ordinance 151), but does not meet the requirements of the district in which it is located for the minimum lot width and area, may be utilized if all other requirements of this title are met. (Ord. 281-07, 9-4-2007)

9-3-4: **PROJECTIONS INTO YARDS:**

A. Cornices, Canopies And Eaves: Cornices, canopies, eaves or other projections which do not increase the volume of space enclosed by the building are allowed; provided, however, that none of these shall project into any required front or side yard more than three feet (3').

B. Exterior Stairs: Exterior stairs of an open design are allowed; provided, that no such stairs shall project into a required front or side yard more than three feet (3') and into any rear yard more than six feet (6').

C. Fences, Walls And Hedges:

1. Fences, walls, and hedges are permitted in any required yard or along the edge of any yard to a height of six feet (6'); provided, that no fence, wall or hedge along the sides or front edge of any front yard shall be over three feet (3') in height.

2. On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in any such manner as to materially impede vision between a height of three feet (3') and ten feet (10') above the centerline grades of intersecting streets bounded by the property lines of corner lots on a line joining points along said property lines for thirty feet (30')[1].

1. See also subsection 8-2-4C of this code.

3. In any zone where a front yard requirement does not exist, no fence, wall or hedge shall be allowed along the front edge or for a distance of twenty feet (20') back from the front edge at any height greater than three feet (3') without prior approval of the planning and zoning commission.

4. Barbed wire and electric fences shall not be erected or maintained within the city unless approved by the planning and zoning commission.

5. Fences shall be maintained in a good state of repair. (Ord. 281-07, 9-4-2007)

9-3-5: **NONCONFORMING USES:** Any use lawfully occupying a building or land at the effective date hereof, or of subsequent amendments hereto, which does not conform to the regulations for the district in which said use is located shall be deemed to be a nonconforming use and may be continued pursuant to the following:

A. Maintenance and minor repairs necessary to keep a nonconforming use in sound condition during such continuance shall be permitted.

B. A nonconforming building may be enlarged or extended only if, thereafter, the entire building is devoted to a conforming use.

C. No building partially occupied by a nonconforming use shall be altered in such a way to permit the enlargement or expansion of the space occupied by such nonconforming use.

D. No nonconforming use may be enlarged or extended in such a way as to occupy any required open space or any land beyond the boundaries of the lot on which it existed at the effective date of the original zoning ordinance of the city (August 5, 1972, ordinance 151), nor may any such nonconforming use displace any conforming use in the same building or on the same parcel.

E. Any nonconforming building destroyed by fire or other calamity to an extent of fifty percent (50%) of the appraised value may not be restored unless such restoration shall make the building a conforming building, and any intended use shall be a conforming use, except in the case of a single- or two-family dwelling destroyed by fire or other calamity; provided, however, that nothing in this title shall be construed to prevent the restoration and the resumption of a former lawful use of any building that is damaged or partially destroyed by

fire or other calamity to the extent of less than fifty percent (50%); provided, that such restoration is started within one calendar year and diligently prosecuted to completion.

F. Whenever a nonconforming use of land or building has been discontinued for a period of one year, or whenever there is evidence of a clear intent to abandon a nonconforming use, such use shall not thereafter be reestablished, and the use of the premises thereafter shall be in conformity with the regulations in the zoning districts. (Ord. 281-07, 9-4-2007)

9-3-6: SPECIAL PROVISIONS FOR SINGLE-FAMILY ATTACHED DWELLINGS (SFAD):

A. No building permit will be issued for an SFAD unless a condominium or townhome plat and common facilities agreement have been submitted to and approved by the city in accordance with the provisions of the city subdivision ordinance.

B. An SFAD shall have no side yard setback requirement at the property line separating the attached or party wall(s). However, all accessory buildings shall comply with the setback requirements in this title unless otherwise altered through the issuance of a conditional use permit. (Ord. 281-07, 9-4-2007)

9-3-7: SPECIAL PROVISIONS FOR MANUFACTURED HOMES:

A. The home shall be at least twenty two feet (22') in width.

B. The home shall have a nonglare metal, wood shake, or asphalt roof with a minimum slope of three to twelve (3:12) and a minimum of six inch (6") eaves.

C. The home shall have an exterior siding that is residential in character, including, but not limited to, clapboards, simulated clapboards (such as conventional vinyl or metal siding), wood shingles or shakes, vertical or horizontal wood siding, or similar material. The siding shall not have a high gloss finish and shall not be composed of smooth, ribbed, or corrugated metal or plastic panels. (Ord. 281-07, 9-4-2007)

D. The home shall be placed on a permanent foundation that complies with the international residential code as adopted in section 8-1-1 of this code; and (Ord. 281-07, 9-4-2007; amd. 2010 Code)

E. The hitch, axles, and wheels must be removed, and the foundation and foundation fascia must be similar in appearance and durability as masonry foundations of site built buildings. (Ord. 281-07, 9-4-2007)

F. Manufactured homes that do not meet the above stated conditions are permitted in established or approved mobile home parks. (Ord. 281-07, 9-4-2007; amd. 2010 Code)

9-3-8: ACCESSORY DWELLING UNITS:

A. Purpose: This section allows accessory dwelling units to provide the opportunity to develop small dwellings designed, in particular, to meet the special housing needs of single persons and couples of modest income. This section allows and encourages the more efficient use of the existing housing stock to preserve historic structures and to provide an incentive for their maintenance. Design standards are established with the intent that the single-family character of the property will be maintained and that the accessory dwelling unit remains subordinate to the primary living quarters.

B. Scale:

1. R-1 and R-2 zones: Accessory dwellings shall not exceed eight hundred (800) square feet of gross floor area.

2. ADR-0.5, ADR-1.0 and A-0.5 zones: Accessory dwellings shall not exceed one thousand (1,000) square feet of gross floor area.

3. ADR-2.5 and A-2.5 zones: Accessory dwellings shall not exceed one thousand two hundred (1,200) square feet of gross floor area.

4. All zones: The gross floor area of an accessory dwelling unit shall not exceed fifty percent (50%) of the primary building's gross floor area, exclusive of basements.

C. Density:

1. A maximum of one accessory dwelling unit is allowed per lot.

2. An accessory dwelling unit is not allowed on any lot where there is more than one primary dwelling (e.g., duplex).

3. For purposes of calculating density in the ADR zones, an accessory dwelling unit shall count as one-half (0.5) dwelling units.

4. If a lot lies within a subdivision created pursuant to any ADR zoning, then no accessory dwelling unit (ADU) shall be allowed, unless the plat specifically allocates an ADU to said lot.

D. Development Standards: The development standards (setbacks, area coverage, etc.) of the underlying zone shall be met, except as modified below:

1. Setbacks: A lot line setback of five feet (5') is allowed where it is adjacent to an alley.

2. Design: The planning and zoning administrator shall review building elevation drawings for conformance with the following standard and shall not issue an accessory dwelling building permit where it is determined that it would not conform with this standard:

a. In order to maintain a consistent architectural character, similar building materials and architectural design shall be used so that the accessory dwelling blends with the general appearance of the primary dwelling. (Ord. 304-09, 4-21-2009)

9-3-9: **SPECIAL PROVISIONS FOR TEMPORARY ON SITE ROCK CRUSHING FOR ON SITE CONSTRUCTION AND MAINTENANCE:** The planning and zoning commission must find that the following standards will be met prior to issuing a conditional use permit for temporary on site rock crushing for on site construction and maintenance:

A. The development has received site plan or final plat approval for the associated construction or maintenance activity or is an approved public facility project.

B. A final grading plan for the development has been approved by the city, or the county if located in the area of impact.

C. No excavation of native material will occur outside of approved roadways or building foundations, unless:

1. A reclamation plan detailing how those areas will be revegetated is approved by the commission,

2. A balance sheet is submitted showing that the excavated material will be used within the development, and

3. The estimated reclamation/revegetation costs are included in the development's surety bond.

D. No off site materials are brought on site for crushing.

E. Rock crushing equipment is removed from the site within fifteen (15) days of completing the crushing activity.

F. Excavated crushed material not used for on site construction or landscaping is removed from the site within thirty (30) days of completing the crushing activity.

G. The rock crushing equipment is set back as far away as practicable from all occupied structures and residential property lines, but in no case shall this setback be less than eight hundred feet (800') without a sound barrier shown to be capable of reducing sound levels at the nearest residential property line or occupied structure to below sixty five (65) dBA. With such sound barrier in place the setback from occupied structures and residential property lines shall not be less than four hundred feet (400').

H. The duration of the temporary rock crushing activity is for no more than sixty (60) consecutive days from the date the activity commenced, unless extended by the city council within an executed development agreement.

I. Rock crushing will occur only during Monday through Friday, between eight o'clock (8:00) A.M. and six o'clock (6:00) P.M., and not on federal holidays.

J. Water is available and utilized for dust control.

K. Any federal, state or county permits required for the proposed operation are obtained. (Ord. 314-10, 5-18-2010)

9-3-10: **FARM ANIMALS IN NONAGRICULTURAL ZONES:** The regulations of this section are established to permit the keeping of farm animals by households in nonagricultural zones in a

manner that prevents nuisances to persons in the vicinity and prevents conditions that are unsanitary or unsafe. Households contemplating such use should first consult any recorded covenants, conditions or restrictions attached to the subject property that may prohibit the keeping of farm animals.

A. Prohibited:

1. The keeping of any animal other than dogs, cats and other household domestic animals and those specifically allowed below is prohibited in all nonagricultural zoning districts.

2. Allowing any farm animal to roam freely on or onto public property or private property without the property owner's permission is prohibited.

B. Rabbits, Turkeys, Ducks And Chickens: The following restrictions shall apply to the keeping of rabbits, turkeys, ducks and chickens, with the exception of roosters, which shall be prohibited from being kept in nonagricultural districts:

1. Number:

a. Provided that all other applicable standards herein are met, one such animal is allowed to be kept by a household per each one thousand five hundred (1,500) square feet of the household's associated lot area, provided also that no more than seven (7) such animals, and no more than three (3) turkeys, may be kept by any one household or on any one parcel.

b. Keeping of up to twenty five (25) such animals by any one household or on any one residential parcel may be conditionally allowed by the planning and zoning commission, subject to issuance of a conditional use permit in accordance with chapter 2, article B of this title. In considering such a request, the planning and zoning commission shall consider the size of area, the setbacks from neighboring residences, the demonstration of need for the proposed number of animals and public comments provided during the hearing.

2. Containment Area Requirement And Standards:

a. Area And Design: Chickens and other birds shall be provided access to an outdoor area at least twenty (20) square feet or at least four (4) square feet for each bird, whichever is larger, and

adequately fenced or contained to prevent escape of birds or entry by dogs or other predators. Any fencing must conform with subsection 9-3-4C of this chapter.

b. Location And Setbacks: Such containment yards shall not be located in a front yard and shall be maintained at a distance of at least twenty five feet (25') to any dwelling other than a dwelling on the same lot.

3. Shelter Requirement And Standards:

a. Area And Design: Rabbits, chickens, ducks and turkeys shall be provided with a covered coop or cage or other shelter that is thoroughly ventilated, designed to be easily accessed and cleaned, and that provides at least four (4) square feet in floor area for each such animal.

b. Height: Freestanding coops or cages shall not exceed eight feet (8') in height.

c. Location And Setbacks: In addition to meeting all applicable building setbacks of the underlying zone, the coops or cages housing such animals shall not be located in a front yard and shall be maintained at a distance of at least fifteen feet (15') to any property line.

C. Alpacas, Llamas, Goats And Sheep: The following restrictions shall apply to the keeping of alpacas, llamas, goats and sheep:

1. Number:

a. Provided that all other applicable standards herein are met, a household with at least one-half ($^1/_2$) acre of associated lot area, is allowed to keep one alpaca, llama, goat or sheep per ten thousand (10,000) square feet of the household's associated lot area.

b. Keeping of up to two (2) such animals per ten thousand (10,000) square feet of associated lot area by any one household or on any one residential parcel may be conditionally allowed by the planning and zoning commission, subject to issuance of a conditional use permit in accordance with chapter 2, article B of this title. In considering such a request, the planning and zoning commission shall consider the size of area, the setbacks from neighboring residences, the demonstration of need for the proposed number of animals and public comments provided during the hearing.

2. Containment And Shelter Requirement And Standards:

a. Area And Design:

(1) No alpaca, llama, goat or sheep shall be kept in any non-agricultural zone unless the animal is contained within an area measuring at least five hundred (500) square feet, or at least two hundred fifty (250) square feet per such animal, whichever is larger.

(2) Such containment area shall be bounded by fencing that is appropriately designed and constructed to prevent the animal's escape from the owner's property and which conforms with subsection 9-3-4C of this chapter.

b. Containment Yard Location And Setback: The containment area containing such animals shall not be located in a front yard and shall be maintained at a distance of at least fifteen feet (15') from any property line.

c. Shelter Location And Setback: Any structure sheltering or housing any alpaca, llama, goat or sheep shall not be located in a front yard and shall be setback at least thirty feet (30') from all property lines.

D. Horses And Cows: The following restrictions shall apply to the keeping of horses and cows:

1. Number: Provided that all other applicable standards herein are met, a household is allowed to keep one horse or cow per one acre of associated lot area.

2. Containment Requirement And Standards:

a. Area And Design:

(1) Containment Area: No horse or cow shall be kept in any nonagricultural zone unless the animal is contained within an area measuring at least five thousand (5,000) square feet per animal, provided that a corral measuring at least five hundred (500) square feet per animal may be used to confine animals from saturated pasture in wet seasons.

(2) Fencing: Such containment area shall be bounded by fencing that is appropriately designed and constructed to

prevent the animal's escape from the owner's property and which conforms with subsection 9-3-4C of this chapter.

(3) Location And Setbacks: In addition to meeting all applicable building setbacks of the underlying zone, the enclosure and/or buildings containing such animals shall not be located in a front yard and shall be maintained at a distance of at least one hundred feet (100') from any dwelling other than a dwelling on the same lot.

E. Animal Nuisances And Cruelty Prohibited: Complaints of animal nuisance and/or cruelty shall be investigated by the enforcement officer, who shall, upon finding a complaint to be in violation of the following requirements, issue a notice of violation and require abatement within forty eight (48) hours of the notice of violation being received by the property occupant(s).

1. Animal enclosures and structures shall be regularly cleaned of waste and maintained so as to prevent offensive odors and the attraction of insects and rodents that would constitute a nuisance or health hazard to any person in the vicinity of the premises.

2. It shall be unlawful for any person or other party operating or occupying any building or premises to keep or allow to be kept any animal that makes noise so as to habitually or regularly disturb the peace and quiet of any person in the vicinity of the premises.

3. Animals shall not be kept in a manner that is injurious or unhealthful to the animals being kept on the property.

F. Slaughtering Of Animals: Rabbits, chickens, ducks and turkeys may be slaughtered on site. No other farm animal may be slaughtered on site.

G. Commercial Activity: The sale of animals and/or animal byproducts is allowed if conducted in conformance with the definition of a "home occupation" provided in chapter 1 of this title. (Ord. 323-11, 6-7-2011)