Annabella Town Land Use Ordinance Amendments

Changes:

Section 8
Amend **§8-404**

Section 9
Amend **§9-404**

Section 10
Amend **§10-404**

Section 14
Amend **§14-100**
Replace **§14-200**
Replace **§14-300**
Add **§14-350**
Replace **§14-400**

Amended Sections:

8-404. REAR YARD: Private garages and accessory buildings located to the rear and at least ten (10) feet away from the main dwelling may be built to the rear and side property line, provided that: (1) they are constructed of non-combustible material; (2) the roof shall not project across the property line, (3) storm water runoff from the building shall not run onto adjacent property, and (4) **no permanent building, structure, foundation, or other permanent construction shall be located within a recorded utility easement in a side or rear yard unless written authorization is obtained from all parties holding rights within the easement.** Combustible buildings must be built at least three (3) feet from the rear and side property line and meet the other requirements for accessory buildings. Detached private garages and accessory buildings shall not exceed 3,000 square feet in size unless a larger building is approved by the Planning Commission.

9-404. REAR YARD: Private garages and accessory buildings located to the rear and at least ten (10) feet away from the main dwelling may be built to the rear and side property line, provided that: (1) they are constructed of non-combustible material; (2) the roof shall not project across the property line, (3) storm water runoff from the building shall not run onto adjacent property, and (4) **no permanent building, structure, foundation, or other permanent construction shall be located within a recorded utility easement in a side or rear yard unless written authorization is obtained from all parties holding rights within the easement.** Combustible buildings must be built at least three (3) feet from the rear and side property line and meet the other requirements for accessory buildings. Detached private garages and accessory buildings shall not exceed 2,000 square feet in size unless a larger building is approved by the Planning Commission.

10-404. REAR YARD: Private garages and accessory buildings located to the rear and at least ten (10) feet away from the main dwelling may be built to the rear and side property line, provided that: (1) they are constructed of non-combustible material; (2) the roof shall not project across the property line, (3) storm water runoff from the building shall not run onto adjacent property, and (4) **no permanent building, structure, foundation, or other permanent construction shall be located within a recorded utility easement in a side or rear yard unless written authorization is obtained from all parties holding rights within the easement.** Combustible buildings must be built at least three (3) feet from the rear and side property line and meet the other requirements for accessory buildings. Detached private garages and accessory buildings shall not exceed 2,000 square feet in size unless a larger building is approved by the Planning Commission.

Replaced Sections:

14-100. BUILDING PERMIT REQUIRED:

Annabella Town shall conform to applicable building code requirements. Building permit applications shall be made through the Annabella Town Planning Commission and the Sevier County Building Department.

A building permit shall be required for all buildings exceeding one hundred twenty (120) square feet. Buildings and structures of one hundred twenty (120) square feet or less shall not require a building permit unless a permit is otherwise required by applicable state or county building, electrical, plumbing, mechanical, or other code requirements.

Exemption from a building permit does not exempt any building or structure from compliance with applicable zoning, setback, height, clear-view, easement, animal, nuisance, or other requirements of this Ordinance.

All building permit applications shall include a copy of the recorded subdivision plat, survey, or other site plan sufficient to identify the property boundaries and all recorded easements affecting the proposed construction. The proposed building or structure shall be shown in relation to the property lines, required setbacks, and recorded easements.

The applicant shall be responsible for identifying recorded easements affecting the proposed development. Approval of a building permit by Annabella Town does not extinguish, modify, or authorize encroachment upon any recorded easement.

14-200. ENFORCING OFFICIALS:

A. Building Code Enforcement. The Sevier County Building Department, or other building official designated by Annabella Town, shall be responsible for administration and enforcement of applicable building codes, including building permits and construction inspections.

B. Land Use and Zoning Enforcement. The Town Council may designate a Town employee, Town official, contracted individual, or other qualified person to serve as the Land Use and Code Enforcement Officer for Annabella Town.

The Land Use and Code Enforcement Officer shall be responsible for enforcement of this Ordinance relating to zoning, land use, setbacks, permitted and conditional uses, accessory structures, animal regulations, and other land-use requirements.

C. Planning Commission. The Planning Commission may identify or report potential violations but shall not ordinarily be responsible for conducting enforcement investigations or imposing enforcement penalties.

14-300. POWERS AND DUTIES OF LAND USE AND CODE ENFORCEMENT OFFICER:

The Land Use and Code Enforcement Officer is authorized to:

1. Receive and investigate complaints regarding potential violations of this Ordinance;
2. Observe and document conditions visible from public property or other locations where the officer is lawfully authorized to be;
3. Request permission from a property owner or occupant to inspect private property when reasonably necessary;
4. Issue courtesy notices, notices of violation, and orders to correct;
5. Establish reasonable deadlines for correcting violations;
6. Conduct follow-up inspections to determine whether violations have been corrected; and
7. Refer unresolved or serious violations to the Town Council, Town Attorney, law enforcement, court, or other appropriate authority.

Nothing in this section authorizes entry onto private property without the consent of the owner or occupant, lawful authority, or an administrative or judicial warrant.

14-350. ENFORCEMENT PROCEDURE:

Except where an immediate threat to public health or safety exists, enforcement of this Ordinance should generally proceed as follows:

A. Courtesy Notice. Upon determining that a violation appears to exist, the Land Use and Code Enforcement Officer may provide a written courtesy notice identifying:

1. The property involved;
2. The apparent violation;
3. The applicable provision of this Ordinance;
4. The corrective action reasonably necessary to achieve compliance; and
5. A reasonable period of time to correct the violation.

A courtesy notice is intended to encourage voluntary compliance and does not constitute a penalty.

B. Notice of Violation. If the violation is not corrected within the time provided, or if circumstances warrant proceeding directly to formal enforcement, the Land Use and Code Enforcement Officer may issue a formal Notice of Violation.

The Notice of Violation shall:

1. Identify the property and responsible person, if known;
2. Identify the applicable ordinance provision;
3. Describe the violation;
4. Identify the corrective action required;
5. Provide a reasonable period of time to cure the violation;
6. State the consequences of failure to comply; and
7. Explain the right to appeal the enforcement decision to the Board of Adjustments.

C. Reasonable Time to Correct. The time provided for correction shall be reasonable considering the nature of the violation and the work, cost, permits, or other actions necessary to correct it. The enforcement officer may extend the compliance deadline for good cause.

D. Immediate Health or Safety Conditions. Where a violation presents an immediate and substantial threat to public health, safety, or welfare, the Town may take lawful enforcement action without completing each preliminary enforcement step provided above.

14-400. PENALTIES AND REMEDIES:

The purpose of enforcement is to obtain compliance with this Ordinance. Except where immediate enforcement is necessary to protect public health or safety, the Town should provide a reasonable opportunity to correct a violation before pursuing penalties or other enforcement remedies.

If a violation is not corrected following notice and expiration of the applicable compliance period, Annabella Town may pursue any remedy authorized by law, including civil enforcement, injunctive relief, abatement, removal of unlawful construction or uses, or criminal enforcement where appropriate.

Each day that an intentional violation continues after expiration of the required correction period may constitute a separate violation where permitted by law.

Criminal enforcement should generally be reserved for intentional, repeated, serious, or unresolved violations or conditions presenting a substantial threat to public health or safety.