

Annabella
Land Use Ordinance

Amended

October 2012

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CHAPTER 1. LAND USE REGULATIONS AND PROVISIONS

SECTION 1. GENERAL PROVISIONS

- 1-100. **SHORT TITLE:** This ordinance shall be known as the “Annabella Town Land Use Ordinance” and may be cited and pleaded.
- 1-200. **PURPOSE:** The purpose of this ordinance is to promote The general welfare of Annabella Town, to protect the health of its inhabitants, to encourage the most appropriate use of land within the Town, to insure the value of property, to lessen the congestion in the streets and ways, to avoid undue concentration of population, to provide an adequate supply of light and air by regulating the location, use, and height of buildings and the area of open spaces about them, to secure safety from fire and other dangers, to secure economy in governmental expenditures, and to foster the Town’s residential development.
- 1-201. **EFFECT OF CHAPTER:** The regulations hereinafter set forth in this chapter qualify or supplement, as the cause may be, the district regulations and all other regulations appearing elsewhere in this ordinance.
- 1-202. **INTERPRETATION:** In interpreting and applying the provisions of this ordinance, the requirements contained herein and declared to be the MIMIMUM requirements for the purposes set forth.
- 1-203. **CONFLICT:** This ordinance shall nullify the more restrictive provisions and covenants, agreements, or other ordinances of law, but shall prevail notwithstanding such provisions which are less restrictive. Whenever less restrictions or provisions are adopted under state law, the most restrictive requirement shall govern.
- 1-204. **EFFECT ON PREVIOUS ORDINANCES AND MAPS:** The existing ordinances covering land use, in their entirety, and including the maps heretofore adopted and made part of said ordinances, are hereby superseded and amended to read as set forth herein; provided, however, that this ordinance included the map(s), shall be deemed a continuation of previous codes and not a new enactment, insofar as the substance or revisions, or previous codes are included in this ordinance, whether in the same or different language; and this ordinance shall be so interpreted upon all questions of construction relating to tenure of officers and Boards established by previous ordinances, to question of conforming or non-conforming uses, and buildings, or structures become conforming or non-conforming.
- 1-205. **FLOOD PLAIN STATEMENTS:** All future development will be required to meet the regulations of the current flood zone which includes all land within the municipal boundaries of Annabella Town and proposed annexation areas. (See Map Community Panel 490122 0001 A – U.S. Department of Urban Housing Development - Annex A)

SECTION 2. DEFINITIONS

- 2-100. **INTERPRETATION:** Unless the context requires otherwise, the following definitions shall be used in the interpretation and construction of this code. Words used in the present tense shall include the future; the singular number shall include the plural, and the plural the singular; the word “building” shall include the word “structure” the words “used” or “occupied” shall include arranged, designed, constructed, altered, converted, rented, lease, or intended to be used or occupied; the word “shall” is mandatory and not directory, and the word “may” is permissive; the word “person” includes a firm association, organization, partnership, trust, company, or corporation, as well as an individual; the word “lot” includes the words plot or parcel. Words used in this code but defined herein shall have the meaning as defined in any other ordinance adopted by Annabella Town.
- 2-101. **ACCESS:** A way of approaching or entering a property. In land use and subdivision regulations, lots of records usually are required to have direct access to a public street or highway or to a private street meeting public standards. In the context of land use controls, access includes engross, the right to leave.
- 2-102. **ACCESSORY APARTMENTS-**A portion of a single-family dwelling (primary dwelling unit), containing separate cooking, sleeping and sanitary facilities, and occupied or intended for occupancy as a separate but subordinate dwelling unit.
- 2-103. **ACCESSORY BUILDINGS:** A building which is not directly related to the main building on the same lot.
- 2-104. **ACCESSORY USE:** A use which is incidental and sub ordinance to the main building or use located on the same lot.
- 2-105. **AGRICULTURE:** The tilling of soil, raising of crops, horticulture and gardening, the keeping or raising of domestic animals, but not including any agricultural industry or business such as fruit packing plants, fur farms, animal hospitals, livestock feed yards, or similar uses.
- 2-106. **ALLEY:** A street or thoroughfare less than twenty (20) feet wide which affords only secondary access to abutting property.
- 2-107. **AMORTIZATION:** A method of eliminating nonconforming uses by requiring the termination of the nonconforming use after a specified period of time. Because of the action of the 1994 State Legislature, billboards are now exempted from amortization.
- 2-108. **ANIMAL UNIT:** One animal unit (excluding nursing young until six months of age) is equal to one (1) cow OR one (1) horse OR two (2) sheep, OR two (2) goats, OR ten (10) chickens, OR two (2) turkeys, OR four (4) rabbits. One (1) pig counts as two (2) animal units. Notation: any young that is bottle feed will be considered as one (1) animal unit.

2-109. APPEAL: When a person believes a decision was made in error, an appeal may be filed so that a higher decision-making body can review the case.

2-110. BOARD OF ADJUSTMENTS: A local body, created by ordinance, and appointed by the Mayor or with the advice or consent of the Council, whose responsibilities include the granting of variances, appeals of administrative decisions, and special exceptions. They also hear special requests for conditional uses unless otherwise directed by the legislative body.

2-111. BUILDING: Any structure having a roof supported by walls or columns, used or intended to be used for the shelter or enclosure of persons, animals, possessions, or property of any kind.

2-112. BUILDING, HEIGHT OF: The vertical distance from grade to the highest point of the building.

2-113. BUILDING, MAIN: A building in which is conducted the principle use of the building site on which it is situated.

2-114. BUILDING OFFICIAL: The person responsible for the administration and enforcement of the building, housing, plumbing, electrical and related codes. All such officials in Utah need to be certified by the State of Utah.

2-115. CARPORT: A private garage not completely enclosed by doors or walls.

2-116. CHILD NURSERY: An establishment for the care and/or instruction of children other than members of the family residing on the premises as outlined by the child care licensing requirements of the State of Utah.

2-117. CONDITIONAL USE: A use of land for which a conditional use permit is required pursuant to Section 16 of this ordinance. A conditional use means a land use that because of its unique characteristics or potential impact on Annabella Town, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

2-118. CORRAL: A pen or corral or enclosure for confining animals.

2-119. DAIRY: A commercial establishment for the manufacture, processing, or packaging of dairy products and their sale; for purposes of this definition, the production of milk on a farm as a dairy.

2-120. DENSITY: The number of families, individuals, dwelling units or housing structures per unit of land; usually that unit is expressed as an acre. The control of density is one of the basic purposes of land use.

2-121. DENSITY, GROSS: Includes land for streets, schools and parks.

2-122. DENSITY, NET: Does not include area for public spaces.

2-123. DENSITY, CONTROL OF: A limitation of the occupancy of land. Density can be controlled through zoning by one or a combination of the following methods: use restriction (single or multiple dwellings); minimum lot size requirements; floor area ratios; setback and yard requirements; minimum house-size requirements; establishing ratios between lot and house size; limitations on units per acre; and other means.

2-124. DEVELOPER: Any person, firm, partnership, corporation or association who causes improvements to be constructed and use to be changed, or land to be subdivided for himself/herself or others.

2-125. DEVELOPMENT IMPACT FEES: A fee or charge imposed on developers to pay for the costs to the community of providing services to a new development. It is a means of providing a fund for financing new public improvements without resorting to deficit financing.

2-126. DEVELOPMENT (LAND) The conversion or alteration of use or physical characteristics of land; placing improvements on the land; or putting land to intensive use such as subdivision, park, mobile home park, recreation vehicle park, shopping center, industrial park, excavation, etc.

2-127. DISTRICT (ALSO ZONE OR ZONING DISTRICT): A portion of the territory of Annabella Town established as a land use district by this code, within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this code.

2-128. DWELLINGS: Any building, or portion thereof, which is designated for use of residential purposes, except hotels, motels, lodging houses and nursing homes.

2-129. DWELLING, SINGLE FAMILY: A building containing only one (1) dwelling unit, designed to be occupied exclusively by one (1) family.

2-130. DWELLING, TWO FAMILY: A building containing only two (2) dwelling units, designed to be occupied exclusively by two (2) families living independently of one another.

2-131. DWELLING, MULTI FAMILY: A building containing more than two (2) dwelling units.

2-132. DWELLING UNIT: One or more rooms designed for use for residential purposes, constituting a separate and independent house-keeping unit with a single kitchen.

2-133. EASEMENT: A right given by the owner of land to another party for specific limited use of that land. For example, a property owner may give or sell an easement on the property to allow utility facilities such as power or pipe lines.

2-134. FAMILY: An individual, or two (2) or more persons related by blood, marriage, or adoption, or a group of not more than four (4) persons who are not related, living in a dwelling unit as a single housekeeping unit and using common cooking facilities.

2-135. FARM/DOMESTIC ANIMALS: Animals that are used as pets or for family food production.

2-136. GARAGE, PRIVATE: A detached building, or a portion of a main building, used or intended to be used for the storage of motor vehicles, trailers, Boats, snowmobiles, etc.

2-137. GARAGE, PUBLIC: A structure or portion thereof other than a private garage, used for storage, sale, care, repair, or refinishing of self-propelled vehicles, trailers, or Boats..

2-138. HOME OCCUPATION: Any activity conducted entirely within the dwelling unit which is clearly incidental and secondary to the residential use of the building. A home occupation shall employ no one except members of the family who are residing in the dwelling and shall not physically change the building to the extent that it would alter the residential character of the building or the residential atmosphere of the local neighborhood.

2-139. GRADE: The average elevation of the adjoining street or streets.

2-140. GRANDFATHER: The right of the use or structure to continue to exist as long as it meets the following criteria; a) the use must be in existence prior to the enactment of the restricting ordinance; b) the use must have been lawful when begun; and c) the use must be of substantial nature so as to warrant constitutional protection of a property right. A “grandfathered use” cannot be expanded or enlarged beyond what was in existence at the time that it was legally owned. A grandfathered use may continue until the use is discontinued for a period of three (3) consecutive years at which time it expires and no longer has validity.

2-141. HARDSHIP: When the literal enforcement of the zoning or land use ordinance would cause an unreasonable requirement of a property owner based on special circumstances attached to the property that do not generally apply to other properties in the same district. A hardship is not recognized if it is self-imposed or economic.

2-142. HOSPITAL: The institution for the diagnosis, treatment and care of human illness or infirmity, including sanitariums and clinics.

2-143. HOUSEHOLD PETS: Animals or fowl ordinarily permitted in the house and kept for company or pleasure, such as dogs, cats, and canaries, including but not more than three (3) dogs or three (3) cats, over six (6) months of age and not more than six (6) animals in total. Household pets do not include animals, fowl, or reptiles inherently or potentially dangerous.

2-144. JUNK: Old or scrape copper, brass, rope, rags, batteries, paper trash, rubber debris, or other waste or salvage material: junked dismantled or wrecked automobiles or parts thereof; and old scrape ferrous or non-ferrous metal materials.

2-145. JUNKYARD OR SALVAGE YARD: Any place, establishment, or business maintained, used or operated for storing, keeping, or selling junk or salvage type material.

2-146. KENNEL: Any premises where three (3) dogs older than six (6) dogs older than six (6) months are kept.

2-147. LAND USE DISTRICT: Any portion of the incorporated area of Annabella Town in which the same zoning regulations apply.

2-148. LODGING HOUSE: A building where lodging only is provided for compensation to three (3) or more persons, but not including motels or hotels.

2-149. LOT: A parcel of land occupied or to be occupied by a building or group of buildings, together with such yards, open spaces, lot width and lot area as required by this ordinance, having frontage upon a street or upon a right-of-way approved by the Planning Commission. Except for group dwellings, not more than one (1) dwelling structure shall occupy any one (1) lot.

2-150. LOT, CORNER: A lot abutting upon two (2) forming or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees.

2-151. LOT, DEPTH: The horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

2-152. LOT, INTERIOR: A lot other than a corner lot.

2-153. LOT, LINES: The property lines bounding the lot.

2-153.1. LOT LINE, FRONT: The line separating the lot from the street. In case a lot abuts on more than one (1) street, the lot owner may elect any street lot line, provided that such choice in the opinion of the enforcement official will not be injurious to adjacent properties. Where a lot does not butt on a street or where access is by means of a right-of-way, the lot line nearest to and most nearly parallel to the street line is the front lot line.

2-153.2. LOT LINE, REAR: Ordinarily that line of a lot which is opposite and most distant from the front line of the lot. In the case of a triangular or gore-shaped lot, a line ten (10) feet in length within the parcel parallel to and at a maximum distance from the front lot line. In cases where these definitions are not applicable, the building inspector shall designate the rear lot line.

- 2-153.3. LOT LINE, SIDE: Any lot boundary line not a front or rear lot line. A side lot separating a lot from another lot or lots is an interior side lot line; a side lot line separating a lot from the street side lot line, between the side lot lines, measures at right angles to the line followed in measuring lot depth.
- 2-154. MANUFACTURED HOME: Shall mean a transportable built housing unit constructed on or after June, 1976. It is in one or more sections. It is built on permanent chassis and is designed to be used as a dwelling with a permanent foundation. It includes plumbing, heating, air-conditioning and electrical systems. All manufactured homes built after June 1976 shall be identifiable by the manufacturer's data plate bearing the date the unit was built and the HUD label attached to the exterior of the home verifying the home was manufactured to HUD standards.
- 2-155. MOBILE HOME: Shall mean a dwelling unit designed to be transported after fabrication on its own wheel or on detachable wheels and which is ready for occupancy as an independent dwelling unit except for the connection to utilities and/or location foundation, and moved into an area for use of permanent housing.
- 2-156. MODULAR UNIT: A structure built from sections which are manufactured in accordance with the construction standards adopted pursuant to uniform building codes and transported to a building site, the purpose of which is for human habitation, occupancy or use.
- 2-157. MORATORIUM: In planning, a freeze on all new development, pending the completion and adoption of certain planning or land use ordinance requirements, e.g., general plan, land use ordinance amendment, sewer line installations, or growth management programs. Moratoriums may last up to six months. Consideration of a moratorium must be on a council's agenda but no public hearing is required.
- 2-158. NON-CONFORMING STRUCTURE: A structure which does not conform to the regulations or the district in which it is situated, but which was in conformity with applicable regulations, if any, at the time of its erection.
- 2-159. NON-CONFORMING USES: A use of a structure or land which does not conform to the use regulations for the district in which it is situated, but which was in conformity with applicable regulations, if any, at the time of its establishment.
- 2-160. NURSING HOME: An institution other than a hospital for the care of human illness or infirmity in which care, rather than diagnosis or treatment constitutes the principal function. The term nursing home shall include rest home and convalescent home.
- 2-161. PARKING LOT: An area, other than a street or alley, for motor vehicle parking or four (4) or more parking spaces.
- 2-162. PARKING SPACE: A permanent area, enclosed or unenclosed, for the parking of motor vehicles.

- 2-163. **PLANNED UNIT DEVELOPMENT: (PUD)** A self-contained development, often with a mixture of land uses and densities, in which subdivision and land use controls are applied to the project as a whole, rather than to individual lots. They are supposedly used to benefit both the developer, often by allowing the greater density, and the municipality, by preserving more open space or safeguarding sensitive areas.
- 2-164. **PLANNING COMMISSION:** The administrative body charged with the development of the general plan, formulation and administration of the land use map and ordinance and the review of any other land-use matters designated by the Mayor and council. For more information see 10-9-201 Utah Code.
- 2-165. **PORTABLE STORAGE UNIT:** A shipping container, cargo container, shipping crate, box, trailer, or similar moveable piece of equipment or object.
- 2-166. **PUBLIC USE:** A use operated exclusively by Annabella Town such use having the purpose of serving the public health, safety, or general welfare, and including such uses as public school, parks, playgrounds, and other recreational facilities; administrative, service facilities, and public utilities.
- 2-167. **QUASI-PUBLIC USE:** A use operated by a private, non-profit, education, religious, recreational, charitable, or philanthropic institution, such as having the purpose primarily of serving the general public, such as churches, playgrounds, private schools, and similar uses.
- 2-168. **RECREATIONAL VEHICLE (RV):** Campers, trailers, or fifth-wheels traditionally used for camping or traveling purposes.
- 2-169. **RIGHT OF WAY:** The portion of land dedicated to the public use for street and/or utility purposes or maintained in private use for similar purposes.
- 2-170. **SIGN:** Any writing, pictorial presentation symbol, banner, or any other figure of similar character of whatever material which is used to identify, announce, direct attention to or advertise, which is placed on the ground, on any bush, tree, rock, wall, post, fence, building, structure, vehicle or any place whatsoever and which is visible from outside a building.
- 2-171. **STREET PROPERTY LINE:** where private property meets the Town/street right of way.
- 2-172. **STRUCTURE:** Anything constructed or erected which requires a fixed location on the ground, or to something having a location on the ground, including signs and billboards.
- 2-173. **TRAVEL TRAILERS OR RECREATION VEHICLES (RV):** A vehicular, portable structure designed as a temporary dwelling for travel, recreational and vacation uses, which is not more than eight (8) feet wide and less than forty (40) feet long.
- 2-174. **TOWN COUNCIL:** The Town Council of Annabella Town, Utah.

- 2-175. **YARD, FRONT:** An open space unobstructed from the ground upward extending along the full width of the lot measured between the building and the front lot line and the nearest front line of the building. (Note- on a corner lot, there are two front yards.)
- 2-176. **YARD, REAR:** An open space unobstructed from the ground upward between a building and the rear lot line. The depth of the rear yard line is the shortest distance measured horizontally between the rear lot line and the closest part of the main building.
- 2-177. **YARD, SIDE:** An open space unobstructed from the ground upward extending from the front yard to the rear yard between a building and the nearest side lot line. The width of the side yard is the shortest distance measured horizontally between any part of the building and the nearest side lot line.
- 2-178. **YOUTH HOME:** Any residence, dwelling or other structure utilized for the domicile, residence, or sleeping accommodations of more than three (3) children under the age of 18 years for more than one week where such child is not related within three degree of consanguinity to the adult persons occupying the same residence or premises.

**SECTION 3. BOARD OF ADJUSTMENTS OF ADJUSTMENTS AND PLANNING
COMMISSION**

- 3-100 **CREATION OF BOARD OF ADJUSTMENTS OF ADJUSTMENT:** There is hereby created a Board of Adjustments of Adjustment by the Town Council, for a term of five(5) members, each to be appointed by the Town Council for a term of five (5) years, provided that the terms of the members of the first Board of Adjustments so appointed shall be such that the term of one member shall expire each year. Any member may be removed for cause by the Town Council upon written charges after public hearing is requested. Vacancies shall be filled for the unexpired term of any member whose term is not completed. One, but not more than one, of the members of the Board of Adjustments of Adjustment shall be a member of the Planning Commission.
- 3-200 **RULES AND REGULATIONS:** The Board of Adjustments of Adjustment shall adopt such rules and regulations not in conflict with laws and ordinances of the Town as may be proper and necessary to accomplish its duties under this ordinance and to govern its own proceedings.
- 3-300 **MEETINGS:** Meeting of the Board of Adjustments shall be held at the call of the chairman and at such other times as the Board of Adjustments in its rules of procedures may specify. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustments shall be open to the public. The Board of Adjustments shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official acts, all of which shall be immediately filed at the Town Hall and shall be a public record.

3-400 COMPENSATION: The Annabella Town Board of Adjustments shall serve without compensation, except that the Annabella Town Council shall provide for the reimbursement of members of approved actual expenses incurred in the line of duty, upon presentation of proper receipts and vouchers, or according to the regular Town policy for the reimbursement of travel and expenditures, for prior approved actual expenses.

3-500 QUORUM VOTE: A quorum shall consist of three (3) members. Evidence shall not be presented unless a quorum is present. At least three (3) votes shall be required in order to carry a motion. The chairman shall vote only to break a tie vote.

3-600 APPEAL TO THE BOARD OF ADJUSTMENTS

3-601. WHO MAY APPEAL: Appeals to the Board of Adjustments may be taken by any person aggrieved or by any officer, department, Board of Adjustments or bureau of the municipality affected by any decision of the administrative body. Such appeals shall be taken within a reasonable time as provided by the rules of the Board of Adjustments by filing with the body from who the appeal is taken and with the Board of Adjustments all the papers constituting the record upon which the action appealed was taken.

3-602 The Board of Adjustments shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties of interest, and shall decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

3-700 POWERS OF BOARD OF ADJUSTMENTS: The Board of Adjustments shall have the following powers:

3-701. To hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the administrative body in the enforcement of this ordinance or of any ordinance adopted pursuant thereto.

3-702. To hear and decide special exceptions to the terms of the ordinance upon which the Board of Adjustments is required to pass under such ordinance.

3-703. Any person or entity desiring a waiver or modification of the requirements of the zoning or land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the Board of Adjustments for a variance from the terms of the zoning or land use ordinance.

3-703.1. The Board of Adjustments may grant a variance only if:

- a) Literal enforcement of the zoning or land use ordinance would cause any unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning or land use ordinance;
- b) There are special circumstances attached to the property that do not generally apply to the other properties in the same district;

- c) Granting the variance is essential to the enjoyment of substantial property right possessed by other property in the same district;
- d) The variance will not substantially affect the general plan and will not be contrary to the public interest; and
- e) The spirit of the zoning ordinance is observed and substantial justice done.

3-703.2. In determining whether or not enforcement of the zoning or the land use ordinance would cause unreasonable hardship, the Board of Adjustments may not find an unreasonable hardship unless the alleged hardship:

- a) Is located on or associated with the property for which the variance is sought;
- b) Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.

3-703.3. In determining whether or not enforcement of the zoning or land use ordinance would cause unreasonable hardship, the Board of Adjustments may not find an unreasonable hardship if the hardship is self-imposed or economic.

3-703.4. In determining whether or not there are special that special circumstances exist only if the special circumstances:

- a) relate to the hardship complained of; and
- b) Deprive the property of privileges granted to other properties in the same district.

3-703.5. The applicant shall bear the burden of proving that all of the conditions justifying the variance have been met.

3-703.6 Variance runs with the eland.

3-703.7. The Board of Adjustments and any other body may not grant use variance.

3-703.8. In granting a variance, the Board of Adjustments may impose additional requirements on the application that will:

- a) mitigate any harmful effect of the variance,; or
- b) Serve the purpose of the standard or requirement that is waived or modified.

3-800 DECISION ON APPEAL: In exercising the above-mentioned powers such Board may, in conformity with the provisions of this article, reverse or affirm wholly any requirements, decision or determination about to be made and to that end shall have all the powers of the officers from who the appeal is taken.

3-900 VOTE NECESSARY FOR REVERSAL: The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, or determination of any such administrative official, or to decide in favor of the appellant on any matter upon which it is required to pass under any ordinance, or to affect any variation in such ordinance.

- 3-1000 JUDICIAL REVIEW OF BOARD OF ADJUSTMENTS DECISION – TIME LIMITATION: The Town or any person aggrieved by any decision of the Board of Adjustments may have and maintain a plenary action for relief there from in any court within thirty (30) days after filing of such decision in the office of the Board of Adjustments.
- 3-1100 CREATION OF THE PLANNING COMMISSION: The Annabella Town Planning Commission shall consist of six (6) members, each to be appointed by the Annabella Town Mayor, with the advice and consent Of the Annabella Town Council. The Annabella Town Council may designate, by resolution, the composition of the Annabella Town Planning Commission. It is the intent of these by-laws that the Annabella Town Planning Commission shall be residents of Annabella Town and owners of real property within the Town. At least four of these six members shall hold no other public office or position within Annabella Town. The Annabella Town Council shall appoint a representative from among its members to serve as voting member of this Commission. One (1) member shall be a member of the Annabella Town Board of Adjustments.
- 3-1200 TERM OF OFFICE: The terms of the appointed members of the Planning Commission, with the exception of the Town Council member, shall be for three (3) years. All apt members’ terms shall be staggered so that no more than two (2) members’ terms shall expire at the same time. The term of office for the Annabella Town Council member designated as a member of the Commission shall correspond to his tenure of office as an Annabella Town Council member. The Planning Commission existing at eh time of passage of these bylaws shall continue to serve, and the terms of its members shall be fixed by the Town Council in such a manner as to comply with the above provisions for staggering terms of service.
- 3-1300 VACANCIES AND CAUSE FOR REMOVALS: Vacancies for appointed members occurring otherwise than through the expiration of terms shall be filled for the remainder of the unexpired term by appointment of the Mayor, with advice of the Annabella Town Council. The Annabella Town Mayor acting upon the recommendation of the Annabella Town Council, shall have the right to remove any member of the apt for and may remove any member for non-performance of duty shall include attendance at less than seventy-five (75) percent of Planning Commission meetings during the course of a year, unless the absences are justifiable and excused with reasonable advance notification.
- 3-1400 COMPENSATION: The apt shall serve without compensation, except that the Annabella Town Council shall provide for reimbursement of the Planning Commissioners for approved actual expenses incurred in the line of duty, upon presentation of proper receipts and vouchers, or according to the regular Town policy for reimbursement of travel and expenditures, for prior approved actual expenses.
- 3-1500 OFFICERS: The apt shall elect a chairperson from among its members, and the chairperson pro-tempore whose term shall be for one (1) year; however a chairperson may serve additional successive terms as governed by the members of the Planning

Commission. The election shall occur during the first calendar year. The members of the Planning Commission representing the Town Council and Board of Adjustments shall not serve as chairman of this Commission.

3-1600 MEETINGS: The apt shall conduct scheduled meetings as required to perform their duties as described in this document. All meetings of the Planning Commission are open to the public.

3-1700 RULES AND PROCEDURES: The apt shall adopt such rules and regulations governing its procedures as it may consider necessary or advisable, and shall keep a record of its proceedings, which record shall be open to inspection and the rules and regulations shall be presented to the Annabella Town Council for their approval or disapproval. Only after the formal approval of the Town Council shall the rules and regulations be enforceable.

3-1800 QUORUM AND VOTE: A quorum shall consist of three (3) members. Evidence shall not be presented unless a quorum is present. At least three (3) votes shall be required in order to carry any motion. The chairman shall vote only to break a tie vote.

3-1900 PLANNING COMMISSION POWER AND DUTIES: The Planning Commission shall:

3-1901. Prepare and recommend a General Plan and amendments to the General Plan to the Town Council.

3-1902. Recommend land use ordinance and maps, and amendments to land use ordinance and maps to the Town Council.

3-1903. Administer provisions of the land use ordinance, where specifically provided in this code.

3-1904. Recommend subdivision regulations and amendments to those regulations to the Town Council as provided in this code.

3-1905. Recommend approval or denial of subdivision applications as provided in this code.

3-1906. Advise the Town Council on matters as the Town Council directs concerning land use.

3-1907. Hear or decide any matters that the Town Council designates, including the approval of building permit applications and the approval or denial of or recommendations to approve or deny conditional use permits.

3-1908. Exercise any other powers that are necessary to enable it to perform its function or as delegated by the Town Council.

SECTION 4. NON-CONFORMING BUILDINGS AND USES

- 4-100. **PURPOSE:** The purpose of this section is to control and regulate all non-conforming uses of land or buildings. It is also intended to control and regulate buildings which are non-conforming as to height and location regulations of the district within which they are located. It is the intent of Annabella Town to phase out all non-conforming buildings and uses over a period of time.
- 4-200. **CONTINUATION OF USE:** Except as hereinafter specified, any use, lawfully existing at the time of enactment of this ordinance may be continued even though such use does not conform with the provisions of the ordinance for the district in which it is located and will be sent a certificate of Non-Conformance Use, so that if property ownership changes or land use changes use will come into compliance. (See Certificate of Non-Compliance).
- 4-300. **UNSAFE STRUCTURES:** Except as otherwise provided by law, any part of a building or structure declared unsafe by a proper public authority shall be restored to a safe condition.
- 4-400. **CONDITONAL USE:** Any use legally existing on the effective date of this ordinance which is listed as a conditional use in the district wherein located, shall be and remain a non-conforming use until a conditional use permit is obtained as provided in this ordinance.
- 4-500. **NON-CONFORMING USES, DISCONTINUANCE, EXTENSION, SUDSTITUTION:**
A non-conforming use shall not be enlarged extended or changed unless the use is changed to a use permitted in the district in which it is located and a non-conforming building shall not be reconstructed or structurally altered unless such alteration results in removing these conditions of the building which render it non-conforming , except as follows:
- 4-501. A non-conforming use may be extended to include the entire floor area of the existing building in which it is conducted at the time the use became non-conforming.
- 4-502. When authorized by the Board of Adjustments upon appeal, a non-conforming use which is determined to be of a more desirable nature may be substituted for another non-conforming use.
- 4-503. When authorized by the Board of Adjustments upon appeal, a building devoted to a non-conforming use may be enlarged or completed upon the lot occupied by such building, provided that such enlargement or completion is necessary and incidental to the existing use of the building.
- 4-600. **CHANGE IN USE:** Whenever a non-conforming use has been changed to a conforming use, such shall not thereafter be changed to a non-conforming use.

4-700. ABANDONMENT: A non-conforming use of a building or premises which has been abandoned shall thereafter be returned to such non-conforming use. A non-conforming use shall be considered to be abandoned when the building usage ceases or a premise is vacant for a period of one (1) year or more.

SECTION 5. PARKING REGULATIONS

5-100 PURPOSE: To reduce street congestion and traffic hazards in Annabella Town incorporating adequate facilities for off-street parking and loading as an integral part of the uses of land in the Town.

5-200 OTHER OFF-STREET PARKING: At the time any church, public school, public building erected or enlarged or increased in capacity or any use is established , it shall be provided with off-street parking spaces for automobiles. The amount and size of the parking spaces required will be determined on an individual basis by the Town Council at the time of the building permit application made.

5-300 DWELLING OFF-STREET PARKING REQUIRED: For each new dwelling erected in Annabella Town, at least one (1) off-street parking space will be provided.

SECTION 6. SUPPLEMENTARY AND QUALIFYING REGULATIONS

6-100 CLEAR VIEW OF INTERSECTING STREETS: In all land use districts which require a front yard, no obstruction to view in excess of two (2) feet in height shall be placed or maintained on any corner lot within a triangular area formed by the street property lines connecting them at points forty (40) feet from intersection of the street property lines, except trees pruned high enough to permit unobstructed vision to motor vehicle drivers.

Horizontal curves shall have the same minimal requirements as an intersection.

6-101. MAXIMUM HEIGHT OF FENCES, WALLS, AND HEDGES: Fences, walls, and hedges may be erected or allowed to the permitted building height in the district when located within the required buildable area.

Fences, wall, and hedges may not exceed 6 feet in height within any required rear yard or interior side yard.

Notwithstanding any other provisions herein, no view-obscuring fence, wall or hedge exceeding 3 feet in height shall be erected or allowed closer to any street line than the required building setback line. Non view obscuring fences or walls may be erected to a maximum height of 4 feet within the front yard. The only exception to this is on streets 99 feet wide where fences or walls may be erected to a maximum of 6 feet on side property lines.

For the purpose of this section, single shrub planting shall not constitute a hedge if the closest distance between the foliage of any 2 plants is and remains at least 5 feet.

Where a fence, wall, or hedge is located along a property line separating 2 lots and there is a difference in the grade of the properties on eth two sides of the property line, the fence, wall, or hedge may be erected or allowed to the maximum height permitted on either side of the property line.

All fence construction requires a building permit to be issued to the County Building Official.

There shall be neither fence nor hedge within 3 feet of fire hydrant.

6-200 AREA REQUIREMENTS FOR SANITARY SEWER: In any district where no public sanitary sewer exists or is accessible, regardless of nay lot area or width elsewhere required for the district, no lot shall be built upon which has an area or width less than that required by the Health Department for the satisfactory functioning of a septic tank on the property.

6-300 DWELLING ON SEPARATE LOTS: Each dwelling structure shall be located and maintained on a separate “lot” as defined in this ordinance, unless requirements are met and a conditional use permit for an accessory apartment is approved by the Planning Commission

6-400 LOCATION AND SPECIAL REGULATIONS PERTAINING TO MANUFACTURED HOMES, MOBILE HOMES, AND RV’S: The use of RV’s and mobile homes as permanent living quarters will not be permitted within Annabella Town limits. Recreational vehicles may be used as temporary living quarters for 14 days within a two month period and only if the recreational vehicle is parked on private property. Manufactured homes will be permitted to be located in any zone within the Town of Annabella if the conditions of the special regulations are met. Special regulations are as follows:

6-401. A building permit must be obtained from the Sevier County Building Department.

6-402. Manufactured homes will be required to be placed on a permanent concrete foundation with masonry skirting within thirty (30) days of delivery.

6-403. The undercarriage and tongue must be removed.

6-404. Each manufactured home will have complete indoor sanitary facilities and meet State sanitation standards.

6-405. Manufactured homes must be skirted with approved conventional skirting within thirty (30) days of placement.

6-406. Each manufactured home must be anchored properly.

6-407. No more than one manufactured home shall be placed on each lot or parcel of land.

6-408. Manufactured homes must meet all other applicable regulations of the single family dwelling ordinance as to zone requirements, setbacks, parking, etc.

6-409. Manufactured homes must have a finished main level living area of at least 1100 square feet.

6-500 MOBILE HOME PARKS AND MOBILE HOME SUBDIVISIONS: Mobile home parks and mobile home subdivisions are not permitted in Annabella Town.

6-600. LOCATION AND SPECIAL REGULATIONS PERTAINING TO YOUTH HOMES: Youth homes will not be permitted in Annabella Town.

6-700 FARM/DOMESTIC ANIMALS: Domestic animals for pets or family food production are as follows: Six (6) animal units per 30,000 to 40,000 square feet (7/10ths of a contiguous acre). It shall be the owners' responsibility to maintain fences and enclosures to protect all property owners land from damage. On lots less than 7/10ths of a contiguous acre a total of two (2) animal units will be allowed, provided that the animals are kept no closer than 40 feet from any neighbors' human dwelling. On a lot 40,000 square feet or greater; a limit of two (2) animal units for each 10,000 square feet providing that the animals are kept no closer than 40 feet from any neighbors human dwelling.

6-800 ACCESSORY APARTMENTS. The following regulations have been established to provide minimum standards for the establishment and operation of Accessory Apartments within the Town:

6-801. Conditional Use Permit application and approval required.

6-802. Accessory Apartments may be approved by the Planning Commission, following the receipt of an application and subject to finding that the primary single family dwelling and proposed accessory apartment conform to the conditions and standards hereinafter set forth.

6-803 Any person constructing or causing the construction of a dwelling containing an Accessory Apartment, or any person remodeling or causing the remodeling of a dwelling intended to include an Accessory Apartment shall first obtain an Conditional Use Permit.

6-804. Before the Conditional Use Permit is issued, the applicant shall submit the following materials relating to the proposed accessory apartment:

- a) A site plan, drawn accurately to scale, that shows property lines and dimensions, the location of all existing buildings, the location of existing and proposed entrances, and the location of existing and proposed off-street parking stalls.
- b) A detailed floor plan of the dwelling, drawn to scale, and showing the use of each room and the location of the rooms included in the accessory apartment.
- c) All plans and other submittals shall conform to the standards set forth in this section.

6-805. Standards and Design Criteria. Any proposal for the establishment of an Accessory Apartment shall comply with the following standards and criteria.

6-805.1 Accessory Apartments shall only be permitted on lots equal to one (1) acre or larger.

6-805.2 No more than one (1) accessory apartment is allowed per lot.

6-805.3 Accessory Apartments shall be permitted only in the instance where one of the dwellings is owner occupied. A copy of the deed will be required at the time of Conditional Use Permit application.

6-805.4 The lot occupied by a Single Family Dwelling with an Accessory Apartment shall include not less than three (3) off street parking spaces. No portion of the required off street parking shall be situated within the front setback area or side setback area adjacent to a street. All off-street parking area shall be paved with concrete, asphalt, masonry or concrete pavers.

6-805.5 An Accessory Apartment shall contain not less than 650 square feet or greater than 1,000 square feet, unless attached to the main structure.

6-805.6 All construction and remodeling to accommodate the accessory apartment shall conform to the building code in effect at the time of construction or remodeling.

6-805.7 A new Single Family Dwelling approved with an Accessory Apartment shall not have a separate entrance for the Accessory Apartment at the front of the dwelling adjacent to a street.

6-805.8 Where the proposed Accessory Apartment is to be located in an existing Single Family Dwelling the entrance shall: (1) conform to the requirements applicable to a new dwelling or (2) be the same as the entrance door for the primary dwelling on any side of the dwelling that faces a street. The purpose of this requirement is to preserve the single family residential look of the structure.

6-805.9 The primary dwelling shall provide written evidence from the Sevier County Public Health Department that the septic tank and drain field system is adequate to accommodate the additional demand from the Accessory Apartment.

6-806. Duration of Permit-Continuing Obligation: A Conditional Use Permit allowing an Accessory Apartment shall be valid for the year in which it is first issued and until December 31 of the year following its issuance. Thereafter, said Conditional Use permit shall be automatically renewed for the next succeeding year upon receipt of (1) evidence that the primary dwelling is occupied by the owner and (2) a determination by the Town that all conditions of approval remain in effect.

6-807. Pre-existing Accessory Apartments: Where an existing Single Family Dwelling contains an Accessory Apartment, the Town will issue a Conditional Use Permit for continued operation of the Accessory Apartment existing at the time of the adoption of this Ordinance if all the following conditions are met:

6-807.1 Accessory Apartments are permitted within the zone in which the dwelling is located, and

6-807.2 The primary dwelling and portion intended for use as an Accessory Apartment shall have been inspected by the building inspector and certified as being safe for occupancy and meeting all building codes.

6-807.3 The owner of the primary dwelling shall have submitted an application to continue operation of the Accessory Apartment within ninety (90) days of the adoption of this Section.

6-808. Penalty: Failure to secure approval of an Accessory Apartment as provided in this Section or to operate an Accessory Apartment in accordance with the terms of this Section shall be considered a violation of the land Use Ordinance and punishable as provided therein.

6-900. PORTABLE STORAGE UNITS. Portable Storage Units are not permitted in Annabella Town. Temporary use of containers during *construction only* is allowed. Any use of containers during construction must be removed within 14 days of final inspection.

SECTION 7. ESTABLISHMENT AND DESIGNATION OF DISTRICTS

7-100 DISTRICTS. Annabella Town is hereby divided into the following districts:

R-1-1. Residential one (1) acre.

R-1-.75 Residential three quarter (3/4) acre

R-1-.5 Residential one half (1/2) acre.

7-200 BOUNDARIES AND DISTRICTS: The boundaries of the aforesaid districts are shown upon the map designated as the "Official Land Use Map of Annabella Town." Said map or maps and all notations, references, date, and other information shown thereon shall be and are hereby adopted and made a part of this ordinance. The said map shall be filed in the custody of the Town Clerk of Annabella and may be examined by the public subject to any reasonable regulations established by the Town Clerk.

7-300 BOUNDARY DETERMINATION: The location of boundaries of the land use districts as shown on the land use map of Annabella Town shall be determined as follows:

7-301. Where land use district boundaries are indicated as approximately following street or alley lines or the center lines thereof, the center lines of such streets or alleys shall be construed to be the land use district boundaries.

7-302. Where land use district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be the land use district boundaries.

7-303. Where uncertainty exists as to the boundary of any district, the Board of Adjustments shall interpret the map.

7-400 REGULATIONS OF DISTRICTS: Except as otherwise provided:

7-401. No building or part thereof or other structure shall be erected, altered, added to or enlarged nor shall any land, building, structure or premises be used, designated or intended to be used for any purpose, or in any manner other than is included among the uses hereinafter listed as permitted in the district in which such building, land, or premises is located.

7-402. No building or part thereof or structure shall be erected nor shall any existing building be altered, enlarged, rebuilt or moved into any district, nor shall any open space be encroached upon or reduced in site area, height of building, and building regulations hereinafter designated for the district in which such building or open space is located.

7-403. No yard or open space provided about any building for the purpose of complying with the provisions of this ordinance shall be considered as providing a yard or open space for any other building, and or yard or, other open space on one building site shall be considered as providing a yard or open space for a building on any other building site.

7-500 INTERPRETATIONS AND CONFLICT: In interpreting and applying the regulations of this ordinance, they shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. This ordinance shall not nullify the more restrictive provisions of covenants, agreements, other ordinances or laws, but if this ordinance imposes a greater restriction, this ordinance shall regulate.

SECTION 8. RESIDENTIAL ONE (1) ACRE. (R-1-1)

8-100 PURPOSE: The general characteristics of this land use is to promote and preserve, in appropriate areas, conditions favorable to large-lot family life and the preservation of family food production activities. This district is intended to be residential in character and protected from encroachment of high-density residential use.

8-200 PERMITTED USES:

8-201. Single family dwellings.

8-202. Farm/domestic animals and household pets.

8-203. Parks and public uses.

8-204. Schools, libraries and churches, etc.

8-300 AREA REQUIREMENTS: An area of not less than one (1) acre shall be required to be provided for each family dwelling to be constructed from the effective date of this ordinance. A one-family dwelling shall include any permanent structure in which a single family is situated and said unit is permanently attached to the land.

8-400

YARD REQUIREMENTS:

8-401. **MINIMUM STREET FRONTAGE:** For any one dwelling structure there shall be a total frontage of not less than 107 feet.

8-402. **SIDE YARD:** For any family dwelling or other structure, there shall be ten (10) feet of side yard on each side and a total side yard requirement for two sides of not less than twenty (20) feet.

8-403. **FRONT YARD:** The minimum set back for any building shall be thirty (30) feet or the average of the existing buildings on the block where 50 percent or more of the frontage is developed; however, in no case shall it be less than 25 feet.

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 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) the building will not be built over right-of-way easements for utilities. Combustible buildings must be built at least three (3) feet from the 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.

8-405. **CORNER LOTS:** All corner lots shall maintain thirty (30) feet setbacks on ALL street sides or the average of the existing buildings on the block where 50 percent or more of the frontage is developed; however in no case shall be less than 25 feet.

8-500.

HEIGHT REGULATIONS: No building or structure shall be erect to a height greater than 2 ½ stories or thirty (30) feet.

8-600.

SPECIAL PROVISIONS:

8-601. Required minimum finished main level living area of any home or residence is 1100 square feet.

8-602. Off-street parking and loading facilities shall be provided for all uses.

SECTION 9. RESIDENTIAL THREE QUARTER (.75) ACRE. (R-1-.75)

9-100

PURPOSE: The general characteristics of this land use is to promote and preserve, in appropriate areas, conditions favorable to large-lot family life and the preservation of family food production activities. This district is intended to be residential in character and protected from encroachment of high-density use.

9-200

PERMITTED USES:

9-201. Single family dwellings.

9-202. Farm/domestic animals and household pets.

9-203. Parks and public uses.

9-204. Schools, libraries and churches etc.

9-300 **AREA REQUIREMENTS:** An area of not less than three quarter (3/4) acre shall be required to be provided for each family dwelling to be constructed from the effective date of this ordinance. A one-family dwelling shall include any permanent structure in which a single family is situated and said unit is permanently attached to the land.

9-400 **YARD REQUIREMENTS:**

9-401. **MINIMUM STREET FRONTAGE:** For any one dwelling structure there shall be a total frontage of not less than 107 feet.

9-402. **SIDE YARD:** For any family dwelling or other structure, there shall be ten (10) feet of side yard on each side and a total side yard requirement for two sides of not less than twenty (20) feet.

9-403. **FRONT YARD:** The minimum setback for any building shall be thirty (30) feet or the average of the existing buildings on the block where 50 percent or more of the frontage is developed; however, in no case shall it be less than 25 feet.

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 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) the building will not be built over right-of-way easements for utilities. Combustible buildings must be built at least three (3) feet from the 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.

9-405. **CORNER LOTS:** All corner lots shall maintain thirty (30) feet setbacks on ALL street sides or the average of the existing buildings on the block where 50 percent or more of the frontage is developed; however in no case shall be less than 25 feet.

9-500. **HEIGHT REGULATIONS:** No building or structure shall be erected to a height greater than 2 ½ stories or thirty (30) feet.

9-600. **SPECIAL PROVISIONS:**

9-601. Required minimum finished main level living area of any home or residence is 1100 square feet.

9-602. Off-street parking and loading facilities shall be provided for all uses.

SECTION 10. RESIDENTIAL ONE-HALF (.5) ACRE. (R-1-.5)

10-100 **PURPOSE:** The general characteristics of this land use is to promote and preserve, in appropriate areas, conditions favorable to large-lot family life and the preservation of family food production activities. This district is intended to be residential in character and protected from encroachment of high-density use.

10-200 **PERMITTED USES:**

10-201. Single family dwellings.

10-202. Farm/domestic animals and household pets.

10-203. Parks and public uses.

10-204. Schools, libraries and churches etc.

10-300 **AREA REQUIREMENTS:** An area of not less than one-half (.5) acre shall be required to be provided for each family dwelling to be constructed from the effective date of this ordinance. A one-family dwelling shall include any permanent structure in which a single family is situated and said unit is permanently attached to the land.

10-400 **YARD REQUIREMENTS:**

10-401. **MINIMUM STREET FRONTAGE:** For any one dwelling structure there shall be a total frontage of not less than 107 feet.

10-402. **SIDE YARD:** For any family dwelling or other structure, there shall be ten (10) feet of side yard on each side and a total side yard requirement for two sides of not less than twenty (20) feet.

10-403. **FRONT YARD:** The minimum set back for any building shall be thirty (30) feet or the average of the existing buildings on the block where 50 percent or more of the frontage is developed; however, in no case shall it be less than 25 feet.

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 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) the building will not be built over right-of-way easements for utilities. Combustible buildings must be built at least three (3) feet from the 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.

10-405. **CORNER LOTS:** All corner lots shall maintain thirty (30) feet setbacks on ALL street sides or the average of the existing buildings on the block where 50 percent or more of the frontage is developed; however in no case shall be less than 25 feet.

10-500. HEIGHT REGULATIONS: No building or structure shall be erected to a height greater than 2 ½ stories or thirty (30) feet.

10-600. SPECIAL PROVISIONS:

9-601. Required minimum finished main level living area of any home or residence is 1100 square feet.

9-602. Off-street parking and loading facilities shall be provided for all uses.

**SECTION 11. LOTS WITH ACCESS RIGHTS OF WAY OR ACCESS STRIPS (FLAG LOTS)-
SPECIAL EXCEPTIONS.**

11-100 Lots not having frontage on a street as required by this ordinance, but having access to such street by means of thirty (30) foot ownership of such access strips or provide drives.

11-101. The Planning Commission determines that it is not feasible or desirable to extend a street to serve such lot or lots at the time of development.

11-102. The right of way or access strip shall have a minimum width of twenty (20) feet improved drive are, plus a ten (10) foot utility strip, for a minimum total width of thirty (30) feet, and a maximum grade of 8%. The utility strip shall not be a part of the improved drive area.

11-103. The area of the right of way or access strip shall not be included within the minimum lot area requirement.

11-104. The lot shall meet all minimum yard and area requirements of the zone in which it is located, exclusive of the right of way or access strip.

11-105. The depth of the front yard shall be the distance between the front line of the building and the building property line or nearest line of the right of way or access strip which the building faces.

11-106. The lot address shall be displayed in a prominently visible location at the street entrance to the right of way access strip.

11-107. Each lot shall access a street by means of its own right of way or access strip. Successive stacking of lots on the same right of way access strip is not permitted.

11-108. No building, structure or parking is allowed in the right of way or access strip, which is to be used solely as access to the lot.

11-109. A 45-foot radius cul-de-sac will be constructed similar to the drive, to provide for an adequate turn around area for emergency vehicles.

11-110. The drive area (minimum 20 feet) will first be brought to a firm unyielding surface by rolling or other means of compaction. All soft material which will not be compact readily will be removed and an approved sub-base material will be installed.

The road base shall consist of a minimum of six (6) inches of approved, crushed gravel base course, and be prepared and placed on the sub grade. If the roadway is disturbed for any reason, it shall be brought back to as good or better condition.

11-111. The maximum length of the “flag stem” or private drive will be limited to eight hundred (800) feet.

11-112. No building permits will be granted until the above conditions are met.

11-113. The Planning Commission may recommend other conditions to ensure safety, accessibility, privacy, etc. to maintain or improve the general welfare of the immediate area.

SECTION 12. CONSTITUTIONAL TAKING REVIEW AND APPEAL

In order to promote the protection of private property rights and to prevent the physical taking or exaction of private property without just compensation, the Town Council and all commissions and boards shall adhere to the following before authorizing the seizure or exaction of property.

12-100

TAKINGS REVIEW PROCEDURE: Prior to any proposed action to exact or seize property by the Town Council or any commission or board, the town attorney shall review the proposed action to determine if a constitutional taking requiring “just compensation” would occur. The town attorney shall review all such matters pursuant to the guidelines established herein. Upon identifying a possible constitutional taking, the town attorney shall, in a confidential protected writing, inform the Town Council, commission or board of the possible consequences of its action. This opinion shall be advisory only and no liability shall be attributed to the Town for failure to follow the recommendation of the town attorney.

12-101. **TAKINGS GUIDELINES:** The Town attorney shall review whether the action constitutes a constitutional taking under the Fifth or Fourteenth Amendments to the Constitution. The town attorney shall determine whether the proposed action bears an essential nexus to a legitimate governmental interest and whether the action is roughly proportionate and reasonably related to the legitimate governmental interest. The town attorney shall also determine whether the action deprives the private property owner of all reasonable use of the property. The guidelines are advisory only and shall not expand nor limit the scope of the Town’s liability for a Constitutional taking.

12-102. **APPEAL:** Any owner of private property who believes that his/her property is proposed to be “taken” by an otherwise final action of the Town, may appeal the Town’s decision to the Takings Appeal Board within thirty (30) days after the decision is made. The appeal must be filed in writing with the Town Clerk. The Takings Appeal Board shall hear and approve the remand or reject the appeal within fourteen (14) days after the appeal is filed. The Takings Appeal Board, with the advice from the town attorney, shall review the appeal pursuant to the guidelines contained in subsection 12-101 herein. The

decision of the Takings Appeal Board shall be in writing and a copy shall be given to the appellant and to the Town Council, commission, or board that took the initial action. The Takings Appeal Board's rejection of an appeal shall constitute final town action.

12-103. TAKINGS APPEAL BOARD: The Board of Adjustments will serve as the Takings Appeal Board.

SECTION 13. CONDITIONAL USE APPLICATIONS AND PLANNED UNIT DEVELOPMENT

13-100 PURPOSE OF CONDITIONAL USE PROVISION: Certain uses which may be harmonious under special conditions and in specific locations within a district, but would be improper under general conditions and in other locations, are classed as conditional uses within the various districts and require conditional use permits. Also special regulations or requirements to specific areas may need to be imposed and, therefore, need review and approval of the Planning Commission.

13-200 CONDITIONAL USE PERMIT: A Conditional Use Permit shall be required for all uses listed as conditional uses in the Conditional Use Matrix.

13-201. APPLICATIONS: Application for a Conditional Use Permit shall be made by the property owner or certified agent thereof to the Planning Commission. The applicant shall include detailed site plans drawn to scale and other documents necessary to assist the Planning commission in arriving at the appropriate decision.

13-202. PUBLIC HEARINGS: No public hearing needs to be held; however, a hearing may be held when the Planning Commission and Town Council deems such a hearing to be necessary and in the public interest.

13-203. NOTIFICATION OF HEARING: A notice of hearing shall be given by at least one publication in a newspaper of general circulation within the Town at least fourteen (14) days prior to date of said hearing.

13-204. DETERMINATION: The Planning Commission may permit a conditional use to be located within any district in which the particular conditional use is permitted by the conditional use matrix. In authorizing any conditional use, the Planning Commission may impose such requirements and conditions as are determined necessary for the protection of adjacent properties and the public welfare.

13-205. APPEALS OF DECISION: Any person shall have the right to appeal any conditional use decision rendered from the Planning Commission to the Town Council within thirty (30) days.

SECTION 14. BUILDING PERMIT REQUIRED, CODE REQUIREMENTS, ENFORCEMENT, AND PENALTIES.

14-100 BUILDING PERMIT REQUIRED: Annabella Town is required to conform to the Uniform Building Code Requirements (UBC). Building permit applications will be made

through the Annabella Town Planning Commission and the Sevier County Building Department.

- 14-200 ENFORCING OFFICIAL: The Sevier County Building Department is hereby designated as the authorized enforcement official charged with the enforcement of this section.
- 14-300 POWERS AND DUTIES FOR ENFORCING OFFICER: The enforcement official is hereby authorized to inspect, or cause to be inspected, all buildings and structures in the course of construction, modification, or repair and to inspect land uses to determine compliance with the provisions of this ordinance.
- 14-400 PENALTY: Any person, firm, or corporation whether as principal agent, employee, or otherwise, violating or causing or permitting the violation of the provisions of the ordinance shall be guilty of a misdemeanor and punishable by law. Such person, firm, or corporation who intentionally violates this ordinance shall be deemed to be guilty of a separate offense for each and every day during which any violation of this ordinance is committed, continued, or permitted by such person, or corporation, and shall be punishable as herein stated.

SECTION 15. AMENDMENTS

- 15-100 POWERS OF TOWN COUNCIL: It shall be lawful for the Town Council from time to time as necessity may arise to change or modify the boundaries of such districts, or any of them, or any regulations or restrictions with respect to land use or buildings.
- 15-200 APPLICATION FOR AMENDMENT-INITIATION: An application for amendment may be initiated by the Town Council. Amendments may also be initiated by an application of one or more property owners of property affected by the proposed amendment, in which case the application shall be accompanied by a fee set by the Town Council, no part of which shall be returnable to the applicant. Unless initiated by the Town Council, no amendment shall be considered without evidence of acquiescence therein of the owners of the property(ies) involved.
- 15-300 ACCOMPANY DATA: An applicant for amendment, executed in triplicate, shall be filed with the Town Council and shall be accompanied by the following:
- 15-301. Maps, drawings, and other data necessary to particularize the request.
- 15-302. An accurate legal description of the property or properties.
- 15-400 REFERRAL TO THE TOWN COUNCIL: Upon receipt of a petition for amendment, the Town Clerk shall submit same to the Planning Commission for consideration and recommendation to the Town Council. The Town Council may or may not, in their discretion, give notice and hold a public hearing thereon. After due consideration, they shall make a recommendation no later than thirty (30) days after referral to it.

15-500 PUBLIC HEARING AND NOTICE. Before any ordinance shall be passed by the Town Council making any change in the Land Use Ordinance or in the Land Use Map, a public hearing shall be held by the Town Council, notice of which shall be given to the public by at least one (1) publication in a newspaper of general circulation in Annabella Town, at least fourteen (14) days prior to said hearing. Notice shall be posted also for seven (7) days prior to the hearing in a conspicuous location in three (3) places of public assembly.

SECTION 16. HOME OCCUPATIONS

16-100 HOME OCCUPATION PERMIT REQUIRED: To assure compliance with the provisions of the Land Use Ordinance and to protect the character of residential neighborhoods in the Town of Annabella, a home Occupation application shall be obtained from Annabella Town before a dwelling unit in a residential zone may be used for business purposes.

16-200 PROCEDURE: Upon application, the Annabella Town Planning Commission shall approve or deny a Home Occupation Permit. The Planning Commission may issue a Home Occupation Permit, which shall state the home occupation permitted, the conditions attached thereto, any time limitations imposed thereon. The permit shall not be issued unless the Planning Commission is satisfied that the applicant will meet all of the conditions listed below, and that the applicant has agreed in writing to comply with all said conditions.

16-300 CONDITIONS: Each and every one of the following conditions must be observed at all times by the holder of a Home Occupation Permit:

16-301. The home occupation will be conducted only by members of the family residing on the premises.

16-302. The home occupation shall be conducted wholly within the structure on the premises and shall not exceed twenty-five (25) percent of the total ground floor area of the home. The home occupation shall not occupy any area within said structures, which is required for off-street parking by the provisions of this ordinance.

16-303. Inventory and supplies for the home occupation shall not occupy more than fifty (50) percent of the permitted area, or twelve (12) percent of the ground floor area of the home.

16-304. No business signs are used.

16-305. No display of any kind shall be visible from the exterior of the premises.

16-306. The home occupation shall not generate pedestrian or commercial traffic in excess of that customarily associated with the zone in which the use is located. Off-street parking shall not exceed that specified for the residential lots as noted in this ordinance.

16-307. There shall be complete conformity with all codes enforced by the Sevier County building authority, all health codes, and all state and city laws and ordinances.

16-308. The home occupation shall not cause a demand for municipal or utility services or community facilities in excess of those usually and customarily provided for residential uses.

16-309. The home occupation shall not alter the residential character of the premises or unreasonably disturb the peace and quiet, including radio and television reception, of the neighborhood by reason of color, design, materials, construction, lighting, sounds, noises, vibrations, dust, odors, noxious fumes, etc.

16-310. Any special condition established by the Planning Commission and made of record in the Home Occupation Permit, as it deems necessary to carry out the intent of this ordinance, shall be met.

16-311. All Home Occupation activities which result in reported violations, complaints, or detrimental characteristics which may, in the opinion of the Planning Commission, require termination of said home occupation and revocation of the Home Occupation Permit, shall be subject to a hearing before the Planning Commission.

16-312. Retail sales on the premises shall be limited to merchandise directly related to the services offered by the home occupation.

16-313. Premises shall be subject to inspection by the Planning Commission after reasonable notice is given with due cause.

16-400 **NONCOMPLIANCE:** Any Home Occupation permit shall be revoked by the Planning Commission upon violation of any requirements of this ordinance, or upon failure to comply with any of the conditions or limitations of the permit, unless such violation is corrected within ten (10) days of receipt of written notice thereof. A permit may be revoked for repeated violations of the requirements of the Chapter, notwithstanding compliance to the violation notice.

16-500 **APPEAL:** In the event of denial of any permit, or of the revocations thereof or of objection to the limitations placed thereon, appeal may be made to the Annabella Town Board of Adjustments with the provisions of this ordinance.

16-600 **BUSINESS LICENSE REQUIRED:** A Home Occupation Permit is not a business license, and the granting of said permit shall not relieve the permittee of any other license requirements of the Town or of any other public agency. A business license fee must be paid and all other appropriate state and federal requirements must be met.

16-700 **NOTIFICATION OF NEIGHBORING PROPERTY OWNERS:** Applicants for Conditional Use Permits are required to give written notification to all property owners within three hundred (300) feet of the property involved of the pending action. The written notification must describe the location and nature of the proposed conditional use.

It must inform neighboring property owners of the opportunity to comment upon the application in a meeting of the Planning Commission. The time, date and place of the meeting at which the application will be considered should be noted. The notification should be read and signed by the neighboring property owners to attest their understanding of its contents. The signed notifications must be attached to the application for the conditional use permit. Notification may be accomplished in person or by mail with the use of a self-addressed, stamped envelope. Notification must be accomplished at the applicant's expense.

SECTION 17. VALIDITY

17-100 **VALIDITY:** if any section, subsection, sentence, clause or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 18. EFFECTIVE DATE

18-100 This ordinance shall become effective after passage, publication, and posting as set forth in state law.

ANNABELLA CONDITIONAL USE MATRIX

Conditional Use R-1-1 (1 acre) R-1-0.75 (3/4 acre) R-1-0.5 (1/2 acre)

Kennels	C	C	C
Portable Storage Units	NP	NP	NP
Home Occupations	C	C	C
Accessory Apartments	C	C Minimum 1 acre required	C Minimum 1 acre required
Medical & Dental Clinics or Labs	C	C	C
Nursing Homes	C	C	C
Commercial Nursery or Greenhouse	C	C	C
Minor Automobile Repair	C	C Minimum 1 acre required	C Minimum 1 acre required
Farm Animal	P	P	P
Building Material Sales Yard, Not Including Ready Mix Concrete Or Asphalt Mixing Plants	NP	NP	NP
*Construction Trades	C	C	C
Private Recreation Facilities	C	C	C
Schools/Churches	C	C	C
RV Trailers While Building Permanent Home	C	C	C

C= Conditional P= Permitted NP= Not Permitted

*i.e. Electrical, carpenter, plumbing, heating shop, printing and publishing, lawn care, window washing, landscaping.