



# TOWN OF *Kiawah Island*

## TOWN COUNCIL MEETING

Kiawah Island Municipal Center

Council Chambers

November 5, 2019; 2:00 PM

### AGENDA

#### Mayor

Craig E. Weaver

#### Council Members

Maryanne Connelly

Daniel Prickett

Klaus Said

Chris Widuch

#### Town Administrator

Stephanie Monroe Tillerson

- I. Call to Order:
- II. Pledge of Allegiance
- III. Approval of Minutes:
  - A. Minutes of the Town Council Meeting of October 1, 2019 [Tab 1]
  - B. Minutes of the Town Council Special Call Meeting of October 22, 2019 [Tab 2]
- IV. Mayor's Update:
- V. Citizens' Comments (Agenda Items Only):
- VI. Presentation:
  - A. Fiscal Year 2019/2020 Audit Presentation – Mauldin Jenkins [Tab 3]
- VII. Consent:
  - A. To Consider Approval of the McCormick Taylor Kiawah Island Parkway Conceptual Plan [Tab 4]
  - B. To Consider Approval of the Contract with Outdoor Spatial Design for the Kiawah Island Parkway Landscape Design [Tab 5]
  - C. To Consider Approval of the Professional Services Agreement and Contract with Three + One [Tab 6]
  - D. To Consider Approval of the Town Attorney Contract for Joseph Wilson [Tab 7]
- VIII. Old Business:
  - A. To Consider Approval of **Ordinance 2019-08** - An Ordinance Repealing Article 15, General Offenses, Chapter 8, Short-Term Rental Permit and Regulations of the Kiawah Island Municipal Code; by Amending Article 14, General Regulations and Adding Chapter 5, Short-Term Rental Application and Regulations – **Second and Final Reading** [Tab 8]
  - B. To Consider Approval of **Ordinance 2019-07** - An Ordinance to Amend Chapter 12, Land Use Planning and Zoning of The Town of Kiawah Island, By Amending Article II, Division 3, Section 12-102. – Principal Uses and Use Regulations; Article IV, Section 12-374. – Definitions; and Adding Article I, Division 3, Section 12-107. – Short-Term Rentals – **Second and Final Reading** [Tab 9]
- IX. New Business:
  - A. To Consider Authorizing the Mayor Pro-Tem and Town Administrator to initiate a study of the property value and public policy implications of Kiawah's brand positioning, to include study scope, initial screening of consulting firms, costs and approaches for inclusion of key stakeholder groups
  - B. To Consider Approval of the 2019/2020 Kiawah Conservancy Project Funding [Tab 10]
  - C. Alligator Audit Update [Tab 11]
- X. Town Administrator's Report:

- XI. Council Member:**
  - a. Committee Updates
  - b. General Comments

**XII. Citizens' Comments:**

**XIII. Executive Session:**

**XIV. Adjournment:**



Tab | **1**

**TOWN COUNCIL**

**Agenda Item**

# TOWN COUNCIL MEETING

Kiawah Island Municipal Center

Council Chambers

October 1, 2019; 2:00 PM

## Minutes

I. **Call to Order:** *Mayor Weaver called the meeting to order at 2:00 pm.*

II. **Pledge of Allegiance**

**Present at the meeting:**

Craig Weaver, Mayor  
Chris Widuch, Mayor Pro Tem  
Maryanne Connelly, Councilmember  
Dan Prickett, Councilmember  
Klaus Said, Councilmember

**Also Present:**

Stephanie Monroe Tillerson, Town Administrator  
Dwayne Green, Town Attorney  
Petra Reynolds, Town Clerk

Notice of the meeting was posted with the Media 24 hours in advance, according to the Freedom of Information Act. All Town Council meetings are recorded for a complete transcript

III. **Approval of Minutes:**

A. Minutes of the Town Council Meeting of August 6, 2019

*Mayor Pro Tem Widuch made a motion to approve the minutes of August 6, 2019, and September 10, 2019 Town Council Meetings. The motion was seconded by Councilmember Prickett, and the minutes were unanimously approved.*

B. Minutes of the Town Council Meeting of September 10, 2019

*Mayor Pro Tem Widuch made a motion to approve the minutes of September 10, 2019, and September 10, 2019 Town Council Meetings. The motion was seconded by Councilmember Connelly, and the minutes were unanimously approved.*

IV. **Mayor's Update:**

Mayor Weaver began by explaining the Public Comments process. He asked that speakers limit their comment time so that everyone has the opportunity to speak, to be succinct, mindful of duplicate comments, and to be courteous and respectful to other speakers. He also reminded speakers that Public Comments is not a debate nor a two-way conversation but instead an opportunity for Council to receive input on community concerns in order to make better decisions.

Mayor Weaver gave a brief overview of the Council discussion process. He stated that both the ordinances amending Short-Term Rentals are at their first reading and a vote should not be perceived as a final verdict. Between the first and second readings, there is the opportunity to make changes, obtain additional feedback, or to follow-up on issues. He noted that this is the first time the complete Council has met to discuss the proposed amendment face to face.

Mayor Weaver explained that for Council members to discuss a matter, a motion must be made and seconded. This is not a vote to approve, but instead opens the floor for discussion and then a vote is taken when discussion is concluded. He noted that four things could come out of the discussion. The council could vote to;

- 1) table the item
- 2) motion to amend the item
- 3) concerns or issues are identified which staff is instructed to take up between first and second reading
- 4) reject the item

**V. Citizens' Comments (Agenda Items Only):**

Members of Town Council received numerous emails of public comment addressing concerns on the proposed amendment of the Short-Term Rental Application and Regulations. A copy of the comments can be found at the Town Clerk's Office or on the Town's website [www.kiawahisland.org](http://www.kiawahisland.org).

During the public comment period of the meeting, the Council also heard similar comments both for and against the amendment. Persons who spoke included:

Allen Allred – 581 Whimbrel Road  
David DeStefano - 31 Burroughs Hall  
Patrick Sheppard – 143 Hooded Merganser  
Greg VanDerwerker – 510 Ruddy Turnstone  
Wendy Kulick – 38 Marsh Edge Lane  
Wendy Kulick – read a statement for Candace Dyal – 23 Ocean Course Drive  
Toula DiGiovanni - 51 Cotton Hall  
Charlie Lipuma – 201 Horned Grebe Court  
Michael DiGiovanni - 51 Cotton Hall  
Ellen Walkley - 574 Whimbrel Road  
Lawrence Bass - 4109 Summer Duck Way  
Scott Nelson - 65 Persimmon Court  
Kelsey Entner – Legal Counsel for Inspirato Vacation Club – Denver CO  
Ross Appel – Legal Counsel for Exclusive Resorts, LLC – Charleston  
Beth Driskell – 4102 Summer Duck Way  
Illene Olanoff – 7 Greensward Road  
Paul Nelson – 410 Amaranth Road  
Barb Waters – 4108 Summer Duck Way  
Bill Duncan – 147 Hooded Merganser and 213 Glenn Abby

**VI. Old Business:**

None

**VII. New Business:**

- A. To Consider Approval of Ordinance 2019-08 - An Ordinance Repealing Article 15, General Offenses, Chapter 8, Short-Term Rental Permit and Regulations of the Kiawah Island Municipal Code; by Amending Article 14, General Regulations and Adding Chapter 5, Short-Term Rental Application and Regulations – First Reading.**

Ms. Tillerson stated the process of revision of the Town's Short-Term Rental (STR) ordinance was a goal identified at the Council Retreat in January. The guiding principles of the revision were to ensure public safety,

promote consistency with the Kiawah brand and standards, balance impact of rental properties on the community, improve compliance, and to keep ahead of a rapidly evolving short-term rental industry. She indicated that there were numerous comments and concerns expressed when the first draft of the ordinance was released to the community. Taking these into consideration, Ms. Tillerson reviewed a summary of the recommended changes and additions.

Ms. Tillerson discussed the Town's citation process, the role of the Code Enforcement officers, and the possible recommendation for additional staff to focus on the enforcement of the STR regulations.

***Mayor Pro Tem Widuch made a motion to approve the first reading of Ordinance 2019-08 - An Ordinance Repealing Article 15, General Offenses, Chapter 8, Short-Term Rental Permit and Regulations of the Kiawah Island Municipal Code; by Amending Article 14, General Regulations and Adding Chapter 5, Short-Term Rental Application and Regulations. Councilmember Connelly seconded the motion.***

Mayor Weaver asked that Council Members limit the first discussion with respect to the ordinance without CAPS, followed by discussion of the STR CAPS. Mayor Pro Tem Widuch began the discussion by stating that in his research of the STR topic, his review of the Town's Comprehensive Plan, the goals found in the formally adopted document meant to inform Town leaders and professional staff where to focus their attention brought him clarity on this issue. He then reviewed the vision statement, and the number one goal in the Comprehensive Plan, to protect and preserve the residential character of the community while maintaining the benefits inherent in the resort component was a goal worth defending and expressed his support of the broad outline of the ordinance.

Councilmember Connelly stated that some of the public safety issues that come with over occupied rentals, the lack of an exit plan, and driveway space for emergency vehicles have not even been addressed. She stated that *Quality of Life* is the reason, first and foremost, why people choose to reside on Kiawah Island. Some of the Kiawah residents are full time, some part-time, but each has the common goal to enjoy and preserve this quality of life. Both full and part-time residents, along with property owners, bear the greater responsibility in maintaining Kiawah standards.

While Kiawah welcomes visitors and enjoys the economic benefits they bring, Councilmember Connelly stated she believed that controlling the supply of rental properties and proper code enforcement is necessary to maintain what is loved about Kiawah Island. Councilmember Connelly stated that with time put into the study, discussion, and questions, she supported the direction provided by the ordinance.

Councilmember Prickett stated a big responsibility of the Town, as stated earlier, is the implementation of a clear and concise set of rules that apply to everybody and the staff available to enforce those rules. He indicated that he supported annual STR licenses that, with repeated violations can be suspended or removed, and that ends when you sell your property. He did add that it was important the property owner or owners' agent be held accountable that renters understand the rules when arriving.

Councilmember Prickett felt there was a problematic area in the ordinance that centers around some vacation clubs who do not feel responsible for the payment of accommodation taxes. In his opinion, this is an issue that must be resolved and will require further discussions with those entities.

Councilmember Prickett was in support of these issues in terms of short-term rental licensing rules and regulations.

Councilmember Said agreed with the comments made by other members of Council, along with the public, there needs to be a focus on enforcement. He was also in agreement with the suspension of an STR license with repeated violations and convictions in Municipal Court.

Councilmember Said raised the subject of fees for further discussion by staff. He indicated that the proposed application fee of \$1,500.00 and \$200.00 for villas is appropriate. The cost of enforcement, done correctly, will be expensive and should be assumed by those who provide rental accommodations. He also requested that during the discussion of the number of licenses that will be available before going to a waitlist, that a supplementary application fee in addition to the regular annual fee is imposed for first-time applicants as a mechanism to prevent the hoarding of licenses.



Mayor Weaver stated that revised ordinance language was well composed and that 90% of what is included was in the original ordinance but cleaned up and rewritten for better clarity on the expectations for rental owners and property managers and to make it more enforceable. He agreed that there are two areas which need further discussion and possible language revision; the issue with vacation clubs and the issue that was raised by Councilmember Said on the fee structure suggesting that staff, with the Council Liaison, look at options by evaluating the projected costs and the revenue impact for review.

Mayor Pro Tem Widuch began the discussion by pointing out that no one is suggesting that the proposed ordinance will ban or reduce STR's but manage their growth. The unlimited rental position relegates full-time residents to the role of a silent partner, forced to accept whatever is forced upon them without raising objection. He explained how the ordinance would work; rentals can continue in most R2 and all R3 zones without restriction. Rentals are allowed to grow in the R1 and select R2 areas by up to 60% above today's level.

Mayor Pro Tem Widuch stated that caps and/or bans on STRs is an issue that a lot of towns are dealing with the exact same debates and arguments. Those who have a financial interest in renting out their homes want there to be no limits to STRs. The full-time residents of these towns want their concerns heard and their rights given at least some consideration. Communities across the country, especially those in high-end tourist locations, are taking steps to limit the proliferation of STRs.

Councilmember Said stated that he is a believer in certain parts of Kiawah as a residential community and that residential communities ultimately get destroyed if you have an overabundance of highly transient short-term rentals. In addressing the statement that the ability to rent is absolutely critical, he indicated that currently, 13% of the homes in R1 have rental licenses, and in the restructured proposal would permit approximately 200 additional licenses allowing for that many more rentals. He added that he supported the structure of the proposed ordinance because it minimized hardship.

Councilmember Prickett discussed comments made on the different options expressed on what effect the STR Ordinance would have on property values and real estate sales. He challenged the professional realtors to come back to Council with an alternative to the cap that makes sense.

Councilmember Connelly agreed that the number of rentals that will be allowed by the proposed ordinance is significant, and she felt that what Council is suggesting is not going to hurt people as much as it would seem.

Mayor Weaver acknowledged the work done in the preparation of the proposed ordinance along with the changes that were made in the past month. He explained the decision to include all of the developed lots on the island in determining the number of licenses. He also discussed the comments and concerns he received from the public, the reason for the changes and additions, along with his support of the proposed ordinance.

***Mayor Pro Tem Widuch amended his motion to approve the first reading of Ordinance 2019-08 with two directions to staff to look at the Vacation Destination Club issue and the level of fees that have been published. The motion was seconded by Council member Said and was unanimously passed***

***Following the discussion the first reading of Ordinance 2019-08 was unanimously passed. Council voted as follows:***

<b><i>Councilmember Maryanne Connelly</i></b>	<b><i>yes</i></b>
<b><i>Councilmember Dan Prickett</i></b>	<b><i>yes</i></b>
<b><i>Councilmember Klaus Said</i></b>	<b><i>yes</i></b>
<b><i>Mayor Craig Weaver</i></b>	<b><i>yes</i></b>
<b><i>Mayor Pro Tem Chris Widuch</i></b>	<b><i>yes</i></b>

- B. To Consider Approval of Ordinance 2019-07 - An Ordinance to Amend Chapter 12, Land Use Planning and Zoning of The Town of Kiawah Island, By Amending Article II, Division 3, Section 12-102. – Principal Uses and Use Regulations; Article IV, Section 12-374. – Definitions; and Adding Article I, Division 3, Section 12-107. – Short-Term Rentals – Public Hearing and First Reading.**

Mr. Taylor presented an explanation of the proposed changes to the Town's Zoning Ordinance. He stated that the proposed STR Ordinance changes would require the amendment of Sec. 12-102 - Principal Uses and Use Regulation, Sec. 12-374 - Definitions, and to create Sec. 12-107 - Rental Applications and Regulations. Mr. Taylor stated that the Planning Commission has reviewed the Zoning Ordinance Text Amendment Applications and voted unanimously for approval to Council.

***Councilmember Said made a motion to open the Public Hearing for Ordinance 2019-07. The motion was seconded by Mayor Pro Tem Widuch and unanimously passed.***

**Ross Appel – Attorney for Exclusive Resorts**

Mr. Appel stated that Exclusive Resorts is deeply concerned about the manner in which the zoning ordinance amendments unfairly single out and target vacation clubs, which may or may not meet the definition of what business Exclusive Resorts conducts on Kiawah and expressed his opposition to the amendments.

***Mayor Pro Tem Widuch made a motion to adjourn the Public Hearing for Ordinance 2019-07. The motion was seconded by Councilmember Said and unanimously passed.***

***Mayor Pro Tem Widuch made a motion to approve the first reading of Ordinance 2019-07 - An Ordinance to Amend Chapter 12, Land Use Planning and Zoning of The Town of Kiawah Island, By Amending Article II, Division 3, Section 12-102. – Principal Uses and Use Regulations; Article IV, Section 12-374. – Definitions; and Adding Article I, Division 3, Section 12-107. – Short-Term Rentals. The motion was seconded by Councilmember Connelly and was unanimously passed.***

- C. Letter of Support of the Medical University of South Carolina's Certificate of Need Application to the SC Department of Health and Environmental Control for a Freestanding Emergency Department and Medical Office Building to be located at 1884 Seabrook Island Road, Seabrook Island**

Mayor Weaver reported on a meeting with the Medical University of South Carolina (MUSC), who is preparing to announce the creation of a comprehensive academic medical center in the area. The center would include an emergency care facility, doctors' offices and a helicopter pad on the top. To build the facility the law requires that MUSC will have to apply for and obtain a certificate of need from the state along with the Town's support in the form of a letter to SC DHEC (Department of Health and Environmental Control). Council members agreed to send the support letter.

**VIII. Town Administrator's Report:**

Ms. Tillerson reported that the clean-up efforts after Hurricane Dorian were completed last week. The current estimated expense for the clean-up stands at \$711,000.00. The cost includes the storm debris removal and chipping with the cost of transporting, disposal, and removal of storm debris at Town Hall. Ms. Tillerson estimated that the final total would be close to \$1M. She added that there is a possibility of FEMA reimbursement if the County meets the damage threshold.

**IX. Council Member:**

- a. Committee Updates
- b. General Comments



Councilmember Connelly reported that the Public Safety Committee would be meeting next Wednesday with the Fire Chief and Captain Martin going through the orders of protocol for fire and safety to understand what happens in an emergency.

**X. Citizens' Comments:**

**Wendy Kulick – 38 Marsh Edge Lane**

Ms. Kulick seconded the praises give to both the Town and the Community Association for how quickly the clean-up was handled following the hurricane.

**David DeStefano – 31 Burroughs Hall**

Mr. DeStefano said that on the comment about too many guests in homes, he would suggest eliminating the two times to plus two. On the fee calculation, he suggested prorating the fees based on how long they want to rent through the year.

**XI. Executive Session:**

None

**XII. Adjournment:**

*Mayor Pro Tem Widuch motioned to adjourn the meeting at 5:19 pm. The motion was seconded by Councilmember Connelly and carried unanimously.*

Submitted by,

\_\_\_\_\_  
Petra S. Reynolds, Town Clerk

Approved by,

\_\_\_\_\_  
Craig E. Weaver, Mayor

\_\_\_\_\_  
Date



Tab | 2

**TOWN COUNCIL**

**Agenda Item**

# **TOWN COUNCIL SPECIAL CALL MEETING**

Kiawah Island Municipal Center

Council Chambers

October 22, 2019; 1:00 pm

## **Minutes**

### **I. Call to Order: Mayor Weaver called the meeting to order at 1:00 pm.**

**Present at the meeting:** Chris Widuch, Chairman  
Craig Weaver, Mayor  
Dan Prickett, Committee Member  
Klaus Said, Committee Member

**Absent:** Maryanne Connelly, Committee Member

**Also Present:** Stephanie Monroe Tillerson, Town Administrator  
Joe Wilson, Attorney  
Petra Reynolds, Town Clerk

*Mayor Weaver made a motion to amend the agenda by moving Executive Session Item C to Other Business. The motion was seconded Councilmember Prickett and was unanimously passed.*

*Mayor Weaver made a motion to move in Executive Session to Receive Legal Advice on the Short-Term Rental Ordinance Related to Destination/Vacation Clubs. The motion was seconded by Councilmember Said and was unanimously passed.*

### **II. Executive Session:**

- A.** To Receive Legal Advice on the Short-Term Rental Ordinance Related to Destination-Vacation Clubs
- B.** To receive Legal Advice on the Procedure to Be Followed at Any Potential Hearing or Appeal of Exclusive Resorts' Business License Denial or Revocation

*Councilmember Prickett made a motion to move in back to Regular Session. The motion was seconded by Mayor Pro Tem Widuch and was unanimously passed.*

### **III. Other Business:**

- A.** Town Council May Vote to Authorize the Town Attorney or Other Town Legal Counsel to Negotiate the Anticipated Procedure to Be Followed at Any Potential Hearing or Appeal of Exclusive Resorts' Business License Denial or Revocation

*Councilmember Said made a motion to provide the Town Attorney or Other Town Legal Counsel the authority to Negotiate the Appeal Hearing Procedure with Exclusive Resorts with respect to their existing licenses with the Town. The motion was seconded by Mayor Pro Tem Widuch and was unanimously passed.*

**IV. Adjournment:**

***Mayor Weaver motioned to adjourn the meeting at 2:08 pm. The motion was seconded by Mayor Pro Tem Widuch and carried unanimously.***

**Submitted by,**

\_\_\_\_\_  
**Petra S. Reynolds, Town Clerk**

**Approved by,**

\_\_\_\_\_  
**Craig Weaver, Mayor**

DRAFT



Tab | 3

**TOWN COUNCIL**

**Agenda Item**

# ***Town of Kiawah Island, South Carolina***



**Auditor's Discussion & Analysis (AD&A)**  
**Financial & Compliance Audit Summary**  
**June 30, 2019**

Presented by:

David Irwin, CPA  
(800) 277-0050

**MAULDIN  
& JENKINS**



**To the Honorable Mayor and Members  
of the Town Council  
Town of Kiawah Island  
Kiawah Island, South Carolina**

In planning and performing our audit of the financial statements of the Town of Kiawah Island, South Carolina (the "Town") as of and for the year ended June 30, 2019, in accordance with auditing standards generally accepted in the United States of America, we considered the Town's internal control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Town's internal control. Accordingly, we do not express an opinion on the effectiveness of the Town's internal control.

However, during our audit, we became aware of a matter that is an opportunity for strengthening internal controls and operating efficiency. This letter includes a comment and suggestion with respect to a matter that came to our attention in connection with our audit of the financial statements of the Town as of and for the year ended June 30, 2019. A separate report dated October 23, 2019 contains our report on the Town's internal control. This letter does not affect our report dated October 23, 2019 on the financial statements of the Town.

The following item is offered as a constructive suggestion to be considered as part of the ongoing process of modifying and improving the Town's practices and procedures.

**Journal Entries**

In accordance with AU-C 316 "SAS No. 99", examination of journal entries and other adjustments is required as part of the audit process to address the risk of management override of controls. During our review of a sample of 25 journal entries, we noted the entries that were prepared by the Town Treasurer were not properly approved. Without review and approval of each adjusting journal entry by a member of management, the Town is exposing itself to the risk of inappropriate adjustments being made to Town accounts.

We recommend the Town strengthen internal controls to ensure review and approval of each entry by someone other than the individual initiating and posting the entry. Such approval should be noted by a sign-off on the journal entry form.

This letter is intended solely for the information and use of the Board of Directors, its management and other officials, federal awarding agencies and pass through entities, and is not intended to be and should not be used by anyone other than these specified parties.



We appreciate serving the Town of Kiawah Island, South Carolina and would be happy to assist you in addressing and implementing the suggestion in this letter.

*Mauldin & Jenkins, LLC*

Savannah, Georgia  
October 23, 2019

TOWN OF

Comprehensive Annual Financial Report

FY Ended June 30, 2019

*Kiawah Island*® South Carolina



Photo by: Bob Hill

Mayor  
Craig Weaver

Council Members  
Chris Widuch, Mayor Pro Tempore  
Maryanne Connelly  
Dan Prickett  
Klaus Said

Town Administrator  
Stephanie Monroe Tillerson

Treasurer  
Dorota Szubert



Tab | 4

**TOWN COUNCIL**

**Agenda Item**



**Town of Kiawah Island**  
**DESIGN AND ENGINEERING**  
**SERVICES FOR**  
**KIAWAH ISLAND PARKWAY**

**McCormick Taylor**



**2019**

### Development of Elevation Scenarios for Parkway Study –

Currently, Kiawah Island Parkway varies in elevation from 5 ft upwards to 12 ft but averages above 7 ft in elevation. During certain weather events, wind direction, and tidal cycles, areas of the Parkway experience nuisance flooding either during sunny days or rain events. It is the desire of the Town to evaluate options to raise the elevation of the Parkway to reduce nuisance flooding, and to make the Parkway more resilient to sea level rise and increased frequency of tropical events. The Town does not desire the Parkway to be 100% flood free under all-weather events and understands that during hurricanes and other severe tropical events, the Parkway will and can be allowed to flood. After reviewing the Kiawah Island Flood Sea Level Rise Report, talking with resources at SC SeaGrant, Town of Mount Pleasant, and review of other documents, the report's recommendation of considering a sea level rise (SLR) of 2.5 feet and storm surge of 4.5 feet for this study is appropriate, as discussed in detail below. The SLR and storm surge will be calculated above the mean higher high water (MHHW) level. This represents a worst-case scenario of flooding occurring above the average of the higher of the two daily high tides at this location.

It is proposed that the Parkway Study will consider these the three scenarios based on the MHHW datum:

1. Scenario 1: nuisance flooding at high tide plus sea level rise for year 2040:
  - a.  $6.16' \text{MHHW} + 2.5 \text{ ft SLR} = 8.66'$
2. Scenario 2: incoming storm surge at high tide:
  - a.  $6.16' \text{ MHHW} + 4.5 \text{ ft of storm surge} = 10.66'$
3. Scenario 3: incoming storm surge at high tide plus sea level rise for 2040:
  - a.  $6.16' \text{MHHW} + 4.5 \text{ ft storm surge} + 2.5 \text{ ft SLR} = 13.16'$

It should be noted that these elevations are based off the MHHW datum, not NAVD88 which is the datum of the recently obtained survey. To begin, the official tidal elevations relative to NAVD88 for the Kiawah Bridge station are shown in Figure 1 and can be accessed from [tidesandcurrents.noaa.gov](https://tidesandcurrents.noaa.gov). The MHHW is 2.88 ft above the NAVD88 datum.

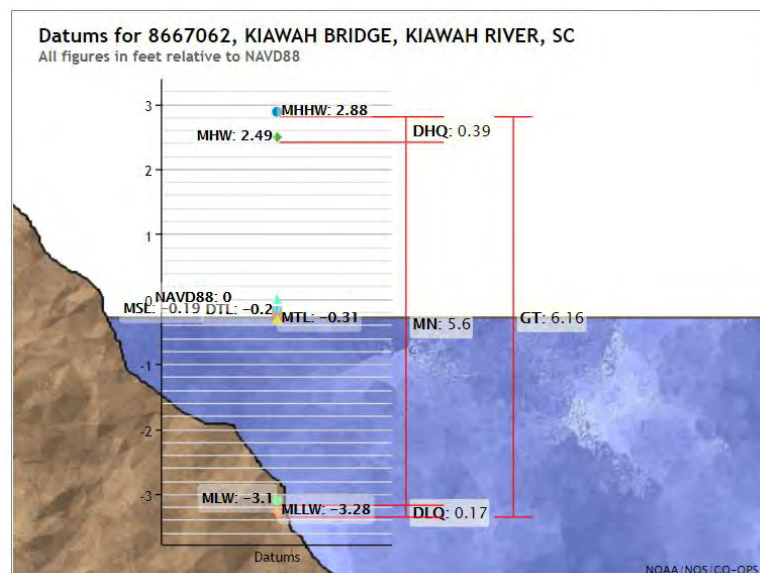


Figure 1: Datums for Kiawah Bridge, 8667062, Kiawah River SC

Considering the NAVD88 Datum, the following elevations will be considered for the Study:

1. Scenario 1: nuisance flooding at high tide plus sea level rise for year 2040:
  - a.  $2.88' \text{ MHHW} + 2.5 \text{ ft SLR} = 5.38'$
2. Scenario 2: incoming storm surge at high tide:
  - a.  $2.88' \text{ MHHW} + 4.5 \text{ ft of storm surge} = 7.38'$
3. Scenario 3: incoming storm surge at high tide plus sea level rise for 2040'
  - a.  $2.88' \text{ MHHW} + 4.5 \text{ ft storm surge} + 2.5 \text{ ft SLR} = 9.88'$

In our discussions with the SC SeaGrant Coastal Climate and Resilience Specialist (Sarah Watson), most organizations in the South Carolina area are considering a SLR between 1.5 ft and 3 ft above MHHW in their planning initiatives. While Mt. Pleasant has not officially adopted a SLR policy, they are considering 1.5 ft above MHHW for tailwater conditions in their ongoing Old Village drainage projects. The NOAA Digital Coast Sea Level Viewer (<https://coast.noaa.gov/slr/>) offers several scenarios for Charleston that are summarized in Table 1. In determining the appropriate SLR elevation to consider, it should be noted that approximately 50% of high tides already exceed the MHHW, upwards of 0.6 ft to 1.9 ft as indicated in the Kiawah SLR report. With this in consideration, a 2.5 ft SLR approach leaves approximately only 7 inches of freeboard based on today's MHHW. Implementing a 2.5 ft elevation increase may not entirely remove the possibility of future sunny day flooding of the roadway if the 2.5' sea level rise comes to fruition.

SLR	Year		
Scenario	2040	2060	2080
intermediate low	0.79'	1.21'	1.61'
intermediate	1.15'	1.94'	2.89'
intermediate high	1.54'	2.76'	4.33'
high	1.94'	3.67'	5.91'
extreme	2.2'	4.36'	7.12'

Table 1: NOAA Digital Coast SLR for Charleston

In consideration of storm surge, SC SeaGrant indicated that the relationship between storm surge and SLR has not been very well studied in the past. Most jurisdictions and academics proceed with a 1:1 ratio, assuming that storm surge is not going to worsen as sea level rises. However, some are beginning to feel that as sea level's increase, so will the magnitude of storm surge, by an unknown multiplier. This area of research is still in its infancy and will be several years before results are in. For this project, KICA representative Lucas Hernandez recommended that storm surge models follow the impacts Hurricane Irma (September 10-11, 2017) had on the island, with a storm surge of 4.5 ft. Storm surge is rather

subjective and based on individual storms and numerous parameters making forecasting an average storm surge nearly impossible. The Kiawah Flood Sea Level Rise Report noted that any storm surge over 3 feet will result in road flooding in some areas within the Island. While this storm surge elevation is based on impacts to the parkway at peak storm, for this study, it would be wise to consider what the all-out flooding impact would be to harden the parkway against a tropical system.





Tab | 5

**TOWN COUNCIL**

**Agenda Item**



# THE TOWN OF KIAWAH ISLAND KIAWAH ISLAND PARKWAY

**RESPONSE TO THE REQUEST FOR QUALIFICATIONS  
FOR PROFESSIONAL LANDSCAPE ARCHITECTURE SERVICES**

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AUGUST 30, 2019

**OUTDOOR SPATIAL DESIGN, LLC**  
1060 E. MONTAGUE STE. 315 | NORTH CHARLESTON, SC 29405  
EVAN BRANDON | EVAN@OSDLA.COM | 843.733.3325  
MARIE LANGLOIS FRIER | MARIE@OSDLA.COM | 843.733.3325







Outdoor Spatial Design, LLC  
1060 E Montague Ave. Ste 315  
North Charleston, SC 29405

August 30, 2019

Stephanie Monroe Tillerson  
Town Administrator  
4475 Betsy Kerrison Parkway  
Kiawah Island, South Carolina

**Ref: Request for Proposal**  
Landscape Architect Services  
Kiawah Island Parkway Project  
Kiawah Island, South Carolina

Dear Ms. Tillerson,

We are excited to submit our qualifications package to the Town of Kiawah (Town) to provide landscape architectural services for the Kiawah Island Parkway. We are a team of highly skilled professionals who are experts in planning streetscapes and public spaces throughout the Lowcountry, and we are excited at the opportunity to work with you on this important project.

At Outdoor Spatial Design (OSD), our mission is to ***elevate the experience of everyday life***. We believe that the quality of the space around us directly impacts our well-being. We believe that the success of the Kiawah Island Parkway Project relies on the following elements, which the OSD team delivers:

#### **Experience, Enthusiasm, and Creative Solutions**

You will find that our team brings enthusiasm and a passion for working on streetscape projects. We pride ourselves on working with our clients to explore creative solutions that maximize the potential of projects.

#### **Communication and Availability**

The members of our team are clear communicators and readily available to work collaboratively with you and the Town. Our office is located in the Park Circle area of North Charleston, in proximity to you and the project site, making it easy for us to collaborate. Each team member shown herein is committed to the success of this project and will work within your projected schedule.

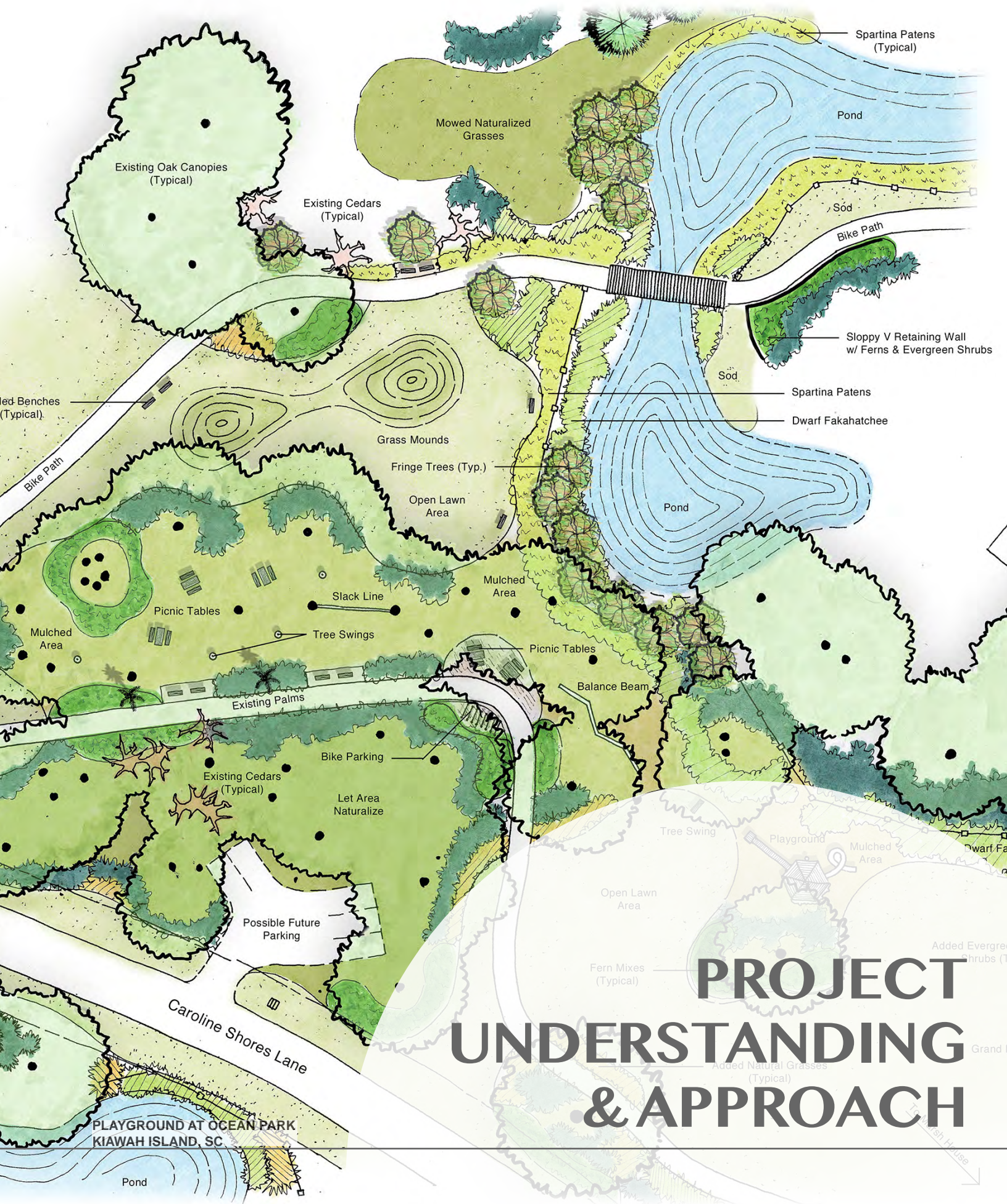
#### **Ability to Tailor Our Services and Competitive Fees**

We are able to customize our scope of services and fees to fit within your allocated budget. We are committed to giving you the best level of service at the most competitive fee. Most importantly, we are able to dedicate the time and personal attention needed to make this project a success.

Sincerely,

**Evan Brandon PLA, ASLA**  
Principal-In-Charge  
(o) 843.733.3325  
evan@osdla.com





# PROJECT UNDERSTANDING & APPROACH







# PROJECT UNDERSTANDING & APPROACH

**OSD** has extensive experience working on public space and streetscape projects throughout the Lowcountry. We are very familiar with Kiawah Island and the Kiawah Island Parkway. We understand that the project originates at and includes the traffic circle near Freshfields and extends approximately 2.4 miles along the two-lane entrance road, and terminates at the security gate at the intersection of Beachwalker Drive.

We also understand that the Town has engaged the engineering services of McCormick Taylor for roadway improvements along the Parkway. We anticipate close coordination between our team and the team at McCormick Taylor to provide seamless landscape architectural design services in tandem with the roadway improvements in order to freshen the signature entrance onto the Island.

It is imperative that the plant material used in the overall design is respective of the environmental conditions of the island. The plant material should consist of mostly natives that are appropriate for the levels of sun and shade that they will receive. Additionally, plants should be salt-tolerant in areas prone to flooding, should be deer resistant, and should attract pollinators. We will use our knowledge of the Lowcountry plant palette as well as plants identified in the “Grow Native” database as the framework for developing the plant palette for this project.

We also understand that hardscaping may be included in the scope of this project.



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## PROJECT APPROACH

Our experienced and passionate design team's planning approach to the Kiawah Island Parkway Project is ***straightforward and effective***. Our design team is committed to quality and exceeding our client's expectations. We firmly believe that a well-organized team of clear communicators is essential to working together with the Town to successfully develop a landscape plan that can be easily maintained and enjoyed by the residents and visitors of Kiawah Island.

Below, we have outlined the scope of services that we anticipate for this project:

### TASK 1: PROJECT KICK-OFF AND DATA COLLECTION

#### KICKOFF MEETING / FIELD VISIT (1 MTG)

We begin the design process with a kick-off meeting between the Town, the design team, and any stakeholders that will be involved throughout the duration of the project. At this meeting, we will outline project goals, deliverables, and expectations of the design team and Town. By developing a vision and setting goals early in the design process, we are best able to ensure achievement of those goals. We will discuss the project scope, budget, site history, available data, long term maintenance goals, and communication methods throughout the design process.

To fully understand the site, the design team will coordinate a field visit with the Town to explore the existing conditions and to discuss the opportunities and constraints for the project. OSD will review owner-supplied information and drawings and will collect photographic evidence and field notes that will help guide the team in later phases of design.

Additionally, we understand that the timeline of this project is crucial. We will work with the Town to develop a project calendar that will have the project constructed well before the 2021 PGA Championship. We have outlined a more detailed anticipated project schedule projection later in this proposal.

#### COMMUNITY ENGAGEMENT STRATEGY AND TOWN COUNCIL (2 MTGS)

**Community engagement is key** for successful streetscape projects. The landscaping enhancements along the Kiawah Parkway have the potential to enhance the lives of those who call Kiawah home as well as those who visit the island. As the landscape enhancements will be experienced by the community, it is crucial to incorporate their thoughts. We will work with you to develop a strategy for community engagement and will be available to present at a public meeting.

Additionally, we will also be available to meet with Town Council during the design process.



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# PROJECT UNDERSTANDING & APPROACH

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## TASK 2: CONCEPTUAL / SCHEMATIC DESIGN

### CONCEPTUAL LANDSCAPE PLANS (UP TO 5 MTGS)

After collecting and analyzing all available data, we will work collaboratively with the Town and stakeholders to develop conceptual landscape plans. We will prepare **three (3) conceptual landscape plans** to be presented to the Town. The plans will include plant images and any applicable images of potential hardscape elements that convey the design intent.

Additionally, we will develop an **Opinion of Probable Cost (OPC)** for each of the conceptual landscape plans. The OPC will allow us to discuss budget requirements for this project and will assist in determining project phasing, if needed.

### REVIEW MEETING WITH THE TOWN

OSD will coordinate a meeting with the Town to gain initial feedback.

### PREFERRED CONCEPTUAL LANDSCAPE PLAN

OSD will incorporate the Town's feedback into the development of a **Preferred Conceptual Landscape Plan**. This plan will be a refined version of one of the conceptual sketch plans or a combination of the plans showing preferred elements included in each. As we work through the design, it is often beneficial to show additional graphics that may include 3D renderings, photo-realistic exhibits, and plan enlargements of key areas within the project scope to fully convey the intent of the design.

Additionally, the **Opinion of Probable Cost** will be updated to reflect the more refined design and ensure that the design continues to be within budget.

### REVIEW MEETING WITH THE TOWN

OSD will review the **Preferred Conceptual Landscape Plan** with the Town for review and comment prior to beginning construction documents. We also suggest a presentation to the community at this time.

## TASK 3: CONSTRUCTION DOCUMENTS

Upon obtaining comments from the Town and the community, we will update the drawings and refine the Preferred Conceptual Landscape Plan into **Construction Documents**. These drawings will be used to obtain bids from qualified contractors and ultimately for construction of the project. We will respond to all regulatory review agency comments as required.

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## CONSTRUCTION DOCUMENTS | 50% PROGRESS SET

OSD will develop the **Construction Documents** to 50% complete set of documents for review and comment by the Town. We anticipate the submittal to include:

- Cover Sheet
- General Conditions and Notes
- Existing Conditions
- Demolition and Tree Protection Plan
- Planting Plan
- Planting Details, Notes and Schedule
- Hardscape Plans (if applicable)
- Hardscape Details (if applicable)
- Irrigation Plan (by Simmons Irrigation)
- Landscape Lighting Conduit Plan (if applicable)

## 50% PROGRESS REVIEW MEETING

OSD will coordinate a meeting with the Town at this stage to review the design documents and gather feedback before continuing to develop the design drawings.

## CONSTRUCTION DOCUMENTS | 95% PROGRESS SET

OSD will incorporate comments received during the 50% progress review meeting and continue to detail the construction documents, developing them into a nearly complete set.

## 95% PROGRESS REVIEW MEETING

OSD will review the design documents with the Town and gather feedback before finalizing the drawings to issue for bidding.

## FINAL CONSTRUCTION DOCUMENTS | BID DOCUMENTS

We will update the construction documents, incorporating the Town's comments into a completed set to be issued for bidding. OSD will also update the **Opinion of Probable Cost** in preparation of the Bidding and Negotiation Process.

## TASK 4: BIDDING AND NEGOTIATION

During the bidding and negotiation process, OSD will assist the Town with advertising the project and obtaining and reviewing bids from interested contractors. We will aid the Town in selecting a contractor and will assist in the preparation of all required paperwork before proceeding into construction.

# PROJECT UNDERSTANDING & APPROACH

## TASK 5: CONSTRUCTION OBSERVATION

OSD will coordinate a pre-construction meeting on site to review the construction drawings and answer any questions related to the design documents.

OSD will be available to both the Town and the contractor for questions and clarifications throughout construction. This will ensure that the drawings are followed correctly and will allow us to adjust the design as needed to allow for unforeseen field conditions. Construction observation shall include seven (7) meetings with the design team and/or contractors:

- Five (5) On-site construction coordination meetings to review and approve hardscape layout, planting quality and location, stake-out of bed lines, tree locations, lighting installation, etc.
- One (1) On-site “punch list” inspection at substantial completion of all landscape and site construction.
- One (1) On-site inspection at completion of all landscape and site construction punch list items.
- Miscellaneous phone calls, emails and coordination with the contractor and owners.



## PROJECT SCHEDULE

Schedule is imperative to the success of this project. We understand that McCormick Taylor is currently working on design documents for the Parkway and our project schedule will be dependent upon their design work. Below is an outline of the projected required time to complete each task as outlined in our proposal.

	Task Name	Estimated Number of Business Days
1	PROJECT KICK-OFF AND DATA COLLECTION	
	KICKOFF MEETING / FIELD VISIT	1
2	CONCEPTUAL / SCHEMATIC DESIGN	
	CONCEPTUAL LANDSCAPE PLANS	15
	REVIEW MEETING WITH THE TOWN	1
	PREFERRED CONCEPTUAL LANDSCAPE PLAN	10
	REVIEW MEETING WITH THE TOWN	1
3	CONSTRUCTION DOCUMENTS	
	CONSTRUCTION DOCUMENTS   50% PROGRESS SET	10
	50% PROGRESS REVIEW MEETING	1
	CONSTRUCTION DOCUMENTS   95% PROGRESS SET	10
	FINAL CONSTRUCTION DOCUMENTS   BID DOCUMENTS	10
4	BIDDING AND NEGOTIATION	
	DRAWINGS OUT TO BID (TYPICAL, DEPENDING ON CONTRACTOR)	10
	REVIEW BIDS	5
4	CONSTRUCTION OBSERVATION	
	<i>*CONSTRUCTION OBSERVATION TO BE IN CONJUNCTION WITH CONTRACTOR'S ALLOCATED SCHEDULE.</i>	





THE MARAIS AT SEASIDE FARMS  
MOUNT PLEASANT, SC



**III. ESTIMATED COST:**

In Compliance with Request for Proposals, the undersigned hereby proposes to provide all services, materials, equipment, and labor, except as otherwise noted, for the following:

**All-Inclusive, Non-Binding Cost Estimate****\$**49,250.00NAME OF COMPANY: Outdoor Spatial Design, LLCBy: \_\_\_\_\_  
SignatureEvan Brandon PLA, ASLA  
Print NameTitle: Founding Principal (i.e., Owner, Partner, Corporate Officer, etc.)Address: 1060 E Monague Ave. Suite 315City: North Charleston State: SC Zip: 29405Telephone Number: 843.733.3325 Business Fax Number: n/aIs your firm a X Corporation, \_\_\_\_\_ Sole Proprietorship, or \_\_\_\_\_ Partnership?If incorporated, please list state of incorporation: South CarolinaFEIN or SSN: 27-1996214



Tab | 6

**TOWN COUNCIL**

**Agenda Item**



three+one  
and  
Kiawah Island, SC



## **I. Professional Services Agreement:**

This professional services agreement ("Agreement") is effective and entered into as of the signed date on page three (3) and is between Kiawah Island ("the Town") and three+one.

## **II. Scope of Services:**

The Town is retaining three+one to provide cashVest® Liquidity & Treasury Analyses services.

### **A. Initial and quarterly cashVest liquidity analyses will:**

- Provide liquidity management data that pinpoints the time-value of the Town's cash in the marketplace.
- Monitor, review, and report on all financial institution accounts for which data is received by three+one.
- Assist the Town in short-term cash management through providing stress tests/algorithmic simulations on all cash.
- Analyze the Town's liquidity proficiency to continually ensure the Town is being provided the maximum value on every dollar in deposit without sacrificing safety or liquidity.
- Ensure appropriate and competitive pricing is being received from financial partners pertinent to the facilitation of cash management.
- Assist the Town in garnering preferred deposit rates with its banking provider(s).
- Monitor and analyze the Town's bank billing analysis statement(s).
- Clearly define next steps and recommendations to secure higher rates and new sources of income on identified strategic liquidity.
- Conduct a review of the Town's Investment Policy Statement (IPS).
- Provide a quarterly cashVest score and report.
- Conduct interview (60 to 90 minutes in duration) with key staff members in order to understand back office processes to aid in providing actionable recommendations.



B. three+one's cashVest services provides the Town with:

- The ability to download reports and updates.
- View quarterly summary of all cash performance across all Town's banking relationships.
- Tailored rate analysis and strategic cash progress.
- Ability to compare customizable investment yields and charts.
- Access to opportunity cost in the financial marketplace, providing transparency for the Town to obtain competitive priced bank products.

C. three+one will be provided the following data from the Town:

- View only [inquiry] access to your online banking portal where three+one will aggregate:
  - 12-months of your bank statements.
  - 12-months of your bank analysis statements.
- Your most current Investment Policy Statement (IPS), if not available online.
- Your Comprehensive Annual Financial Report (CAFR), if not available online.
- Your current year's approved budget, if not available online.

### **III. Confidentiality**

Each party will comply with all laws and regulations that apply to use, transmission, storage, and disclosure, or destruction of confidential information. Both the Town and three+one agree to hold the other party's information in strict confidence. Both parties agree to not use any information provided except as expressly permitted by or required to achieve the purposes of this Agreement. Both parties agree to use information and data solely for the purposes of performing the Services outlined in this Agreement. Both parties agree to use all reasonable efforts to protect the unauthorized use or distribution of confidential information. three+one agrees to use the same degree of care to prevent disclosing any data to unauthorized third parties except such disclosure or access that will be permitted in order to perform the Services provided under this Agreement.

### **IV. Severability:**

With reasonable cause, either party reserves the right to cancel this Agreement without obligation by giving 30 days written notice to the other party of the intent to terminate after the first full calendar year of services.



## V. Financial Arrangements

Initial and quarterly cashVest Fee Overview:

- \$9,900 initial analysis fee, **guaranteed 5 to 1**, and billed after initial recommendations report shows a 5 to 1 benefit. If three+one does not find \$49,500 in a benefit over a one-year period, then the one-time fee is waived.
- 0.00025 quarterly liquidity monitoring and reporting fee.
  - *Example of fee calculation:  $\$1,000,000 \times 0.00025 = \$250.00$  per quarter per million dollars of calculated strategic liquidity. Billed 90-days after initial recommendations report.*

**Signatures:**

<hr style="border: 0; border-top: 1px solid black; margin-bottom: 10px;"/>	<hr style="border: 0; border-top: 1px solid black; margin-bottom: 10px;"/>
<b>three+one</b>	<b>Date</b>
<hr style="border: 0; border-top: 1px solid black; margin-top: 10px;"/>	<hr style="border: 0; border-top: 1px solid black; margin-top: 10px;"/>
<b>Kiawah Island, SC</b>	<b>Date</b>

*Without signatures, this agreement is valid for 180 days from October 22, 2019.*



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**TOWN COUNCIL**

**Agenda Item**

**CONTRACT SERVICES AGREEMENT FOR  
TOWN ATTORNEY SERVICES  
TOWN OF KIAWAH ISLAND**

This **CONTRACT SERVICES AGREEMENT FOR TOWN ATTORNEY SERVICES** (the "Agreement") is effective as of the **1<sup>st</sup> day of January 2020** for a period of one (1) year, by and between the Joseph C. Wilson, IV of Pierce, Sloan, Wilson, Kennedy & Early, LLC (hereinafter the "Law Firm"), and the **Town of Kiawah Island, South Carolina** (hereinafter the "Town"). The term "Town" shall also include all boards, commissions, and other bodies of the Town.

**RECITALS**

- A. Chapter 2, Section 203(5) of the Municipal Code places upon the Mayor and Council the responsibility of appointing a Town Attorney, and;
- B. The Town's custom and practice has been to appoint or re-appoint the Town Attorney during the regularly scheduled January Council meeting, and;
- C. The Ways and Means Committee has recommended to the Mayor and Council that a Contract Agreement for Municipal Legal Services be prepared for review by the Mayor and Council at the November 5, 2019 and possibly a Motion be made authorizing the execution of the Contract for Municipal Legal services.

## **AGREEMENT**

**NOW, THEREFORE,** IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED HEREIN THE PARTIES HERETO AGREE AS FOLLOWS:

### **1. APPOINTMENT**

Town Council hereby appoints Joseph C. Wilson, IV (hereinafter the "Attorney") as the Town Attorney, and hires Attorney to render such legal services as are customarily rendered by such attorneys and as further specified herein, including attending meetings of the Town Council, Board of Zoning and Appeals (BZA), and other boards and bodies of Town, and its affiliated agencies, as directed by the Town.

Attorney will personally provide the legal services hereunder. Attorney is currently "of counsel" for Pierce, Sloan, Wilson, Kennedy & Early, LLC ("Law Firm"), and he may use Law Firm resources from time to time necessary due to illness or vacation schedule or if the Town becomes involved in litigation. Approval of any such temporary substitute or litigation support shall be obtained from the Mayor or Town Administrator.

### **2. SCOPE OF WORK AND DUTIES**

- A. The Attorney shall perform any and all work necessary for the provision of Town Attorney services to the Town, including, without limitation, the following:
  - 1. Attend all regularly scheduled and special Town Council meetings and Town Council work sessions.
  - 2. Attend other meetings at Town Hall as required by the Mayor or the Town Administrator.
  - 3. Advise the Town Council; appointed Commissions, Committees, and Boards; Town staff; and other Town officials on all legal matters pertaining to Town business.
  - 4. Prepare, review, and approve as to form, contracts, agreements, resolutions, ordinances, and all other standard Town documents.
  - 5. Prepare such written and oral legal opinions as shall, from time to time, be requested by the Town.
  - 6. Perform such other routine legal services as are required, from time to time, by the Town Council or the Town Administrator.
  - 7. Represent the Town and the Town's officials, officers, and employees in litigation and administrative proceedings as directed by the Mayor.

8. Make recommendations concerning the selection of outside legal counsel, when necessary, on appropriate matters and supervise such outside legal counsel handling transactional or litigation matters on behalf of the Town.

### 3. COMPENSATION

#### a. STANDARD MUNICIPAL WORK

Compensation is Seventy-Two Thousand Dollars (\$72,000.00) per year payable in twelve monthly payments of Six Thousand Dollars (\$6,000.00) due at the end of each month. This amount is based on a "fixed price" Contract Agreement regardless of the amount of time necessary for the Town Attorney to familiarize himself with his responsibilities and become proficient in completing the scope of legal services anticipated herein. The fixed price will also cover any work performed by employees or attorneys of the Law Firm except for litigation as outlined below. Payments to Attorney will be made to his designee, currently the Law Firm. The fixed price fee is deemed earned upon payment, will not be kept in escrow, and will be disbursed upon payment.

The fixed price does not include expenses. Expenses for non-litigation work include copy costs, mail, long distance, and mileage for outside of the Tri-County area. The Law Firm will not charge for expenses related to office administration, such as secretarial or clerical work.

#### b. Litigation

In the event that the Attorney appears as counsel of record in any litigation on behalf of the Town, the following rates shall apply for Attorney and other attorneys at the Law Firm and will be paid over and above the fixed price compensation for Attorney and any other person in Law Firm:

Joseph C. Wilson, IV (and any other partner)	\$225.00 an hour
Associates	\$175.00 an hour
Paralegals	\$ 85.00 an hour

The Law Firm will charge in increments of one-tenth of an hour, rounded off for Litigation activity to the nearest one-tenth of an hour. The minimum time charged for litigation work will be one-tenth of an hour. Litigation work performed on behalf of the Town will be entered and billed separately with a general description of the work performed and who requested the work.

In addition, Town will pay all expenses incurred by Attorney and the Law Firm in any litigation, including, but not limited to, court filing fees, process server fees, expert witness fees, and expenses, investigation costs, court reporter fees, travel expenses, long distance telephone costs, postage, and photocopying charges. The Law Firm will not charge for expenses related to office administration, such as secretarial or clerical work. Expenses less than \$1,000.00 will be advanced by the



Law Firm and then billed to Client. Expenses over \$1,000.00 may be sent directly to the Client for payment at the discretion of the Law Firm.

c. Contingency Fee

In litigation wherein the Town is a Plaintiff, the parties to this agreement may negotiate a contingency fee, as opposed to the hourly rate set forth above.

**4. MONTHLY STATEMENTS**

The Law Firm will prepare and deliver monthly bills setting out the time expended and expenses for the preceding month; provided, however, the payment for legal services shall be Six Thousand Dollars (\$6,000) each month, plus additional fees for any representation of the Town in any lawsuits in which Attorney appears as counsel of record at the request of the Town.

**5. PROHIBITION AGAINST SUBCONTRACTING, DELEGATING OR ASSIGNMENT**

The Attorney shall not contract with or delegate to any individual or other entity (other than work performed by paralegals and attorneys at the Law Firm as set forth above) to perform on the Town's behalf, in whole or in part, any of the services required under this Agreement without the prior express approval of the Town. In addition, neither this Agreement nor any interest therein may be assigned or transferred, voluntarily or by operation of law, without the prior express approval of the Town.

**6. CONFLICT OF INTEREST**

The Attorney shall at all times, avoid conflicts of interest in the performance of this Agreement. In the event that a conflict arises, the Attorney shall immediately notify the Town following discovery of the conflict. The Attorney shall also file a conflict of interest disclosure statement setting forth any information related to potential conflicts of interest to the extent such disclosure is required by law.

**7. INDEPENDENT CONTRACTOR**

The Attorney shall perform all services required under this Agreement as an independent contractor of the Town and shall remain at all times as to the Town a wholly independent contractor with only such obligations as are consistent with that role. Neither The Attorney nor any employees or members of the Pierce, Sloan, Wilson, Kennedy & Early, LLC shall at any time or in any manner represent that it or any of its employees or agents are employees of the Town.

**8. INSURANCE**

The Law Firm agrees to carry and keep in full force and effect during the term of this contract Errors and Omissions coverage in the amount of One Million Dollars

(\$1,000,000.00) per occurrence and shall provide the Town with proof of such coverage in the form of a Certificate of Insurance on an Annual Basis.

**9. NON-DISCRIMINATION**

The Attorney pledges there shall be no discrimination against or segregation of any person or group on account of race, color, creed, religion, sex, marital status, sexual orientation, national origin, or ancestry in the performance of services under this Agreement.

**10. AMENDMENT**

This Agreement cannot be amended unless such amendment is contained in writing signed by both the Town and the Attorney.

**11. SEVERABILITY**

If any clause or provision herein shall be adjudged invalid or enforceable by a court of competent jurisdiction or by operation of any applicable law, it shall not affect the validity of any other clause or provision which shall remain in full force and effect.

**12. THIRD PARTY BENEFICIARIES**

Nothing contained in this Agreement shall be construed so as to confer upon any third party the rights of a third party beneficiary.

**13. NON-WAIVER**

Failure of either party to this Agreement to insist upon strict compliance by the other party with any of the terms or conditions of this Agreement shall not be deemed a waiver of such term or condition or any other terms and conditions of this Agreement.

**14. GOVERNING LAW**

This Agreement shall be governed by and construed in accord with the laws of the State of South Carolina.

**15. ENTIRE AGREEMENT**

This Agreement contains the entire agreement between the Town and the Attorney with regards to all rights, obligations, terms and conditions related to the Town's contract with the Attorney. This Agreement supersedes any other prior or contemporaneous negotiations or agreements, whether oral or in writing.

**IN WITNESS WHEREOF**, the parties hereto have executed or caused their authorized representatives to execute, this Agreement the 5th day of November, 2019.

TOWN OF KIAWAH ISLAND

By: \_\_\_\_\_  
Craig Weaver, Mayor

ATTEST:

\_\_\_\_\_  
Petra S. Reynolds, Town Clerk

By: \_\_\_\_\_  
Joseph C. Wilson IV, Esquire



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**TOWN COUNCIL**

**Agenda Item**

## THE TOWN OF KIAWAH ISLAND

### ORDINANCE 2019-08

#### **AN ORDINANCE REPEALING ARTICLE 15, GENERAL OFFENSES, CHAPTER 8, SHORT-TERM RENTAL PERMIT AND REGULATIONS OF THE KIAWAH ISLAND MUNICIPAL CODE; BY AMENDING ARTICLE 14, GENERAL REGULATIONS AND ADDING CHAPTER 5, SHORT-TERM RENTAL APPLICATION AND REGULATIONS**

**WHEREAS**, owners of residential units within the Town may rent their dwelling units for periods of time less than 30 days conditioned on paying a short-term rental business license fee, being licensed to conduct business, and the payment or collection and remittance of applicable state, county and local accommodation taxes; and

**WHEREAS**, the Town Council believes that establishing specific regulations and licensing requirements for short-term rental units is necessary to protect the public health, safety, and welfare; and

**WHEREAS**, the Town Council established short-term rental license caps in the R-1 and specific areas of R-2 residential zones; and

**WHEREAS**, the Town Council concludes that specific regulation and licensing for short-term rentals will help balance the community's interest in attracting visitors while maintaining a high quality of life for full and part-time Town residents; and

**WHEREAS**, the Town Council wishes to amend the current sections relating to the regulation of residential property as short term rentals.

Section 1. Article 14 of the Kiawah Island Municipal Code is hereby amended by the addition of a new Chapter 5, Short-Term Rental Application and Regulations, to read as follows:

**NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE COUNCIL OF THE TOWN OF KIAWAH ISLAND, SOUTH CAROLINA, AND IT IS ORDAINED BY THE AUTHORITY OF SAID COUNCIL.**

#### **Section 1                      Purpose**

The purpose of this Ordinance is to repeal and replace Article 15, General Offenses, Chapter 8, Short Term Rental Permit and Regulations by amending Article 14, General Regulations and adding Chapter 5, Short-Term Rental Application and Regulations.

## **Section 2**                      **Ordinance**

The Town hereby repeals Article 15, General Offenses, Chapter 8, Short Term Rental Permit in its entirety, and amending Article 14, General Regulations and adding Chapter 5, Short-Term Rental Application and Regulations.

Article 14, General Regulations, Chapter 5, Short-Term Rental Application and Regulations, be, and the same is hereby created as follows in **“Attachment A.”**.

## **Section 3**                      **Severability**

If any part of this Ordinance is held to be unconstitutional, it shall be construed to have been the legislative intent to pass said Ordinance without such unconstitutional provision, and the remainder of said Ordinance shall be deemed to be valid as if such portion had not been included. If said Ordinance, or any provisions thereof, is held to be inapplicable to any person, group of persons, property, kind property, circumstances or set of circumstances, such holding shall not affect the circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property or circumstances

## **Section 4**                      **Effective Date and Duration**

This Ordinance shall be effective on January 1, 2020.

**PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF KIAWAH ISLAND ON THIS 5<sup>th</sup> DAY OF NOVEMBER 2019.**

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**Craig Weaver, Mayor**

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**Petra S. Reynolds, Town Clerk**

1<sup>st</sup> Reading: October 1, 2019

2<sup>nd</sup> Reading: November 5, 2019



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## Chapter 8 Rental Applications and Regulations

The intent of these regulations is to promote public health, safety, and welfare and to discourage nuisance and behavioral issues associated with short-term rental properties in residential zoning districts, R-1, R-2, and R-3.

### Sec. 15-801. – Definitions

The following words and phrases, as used in this Article, shall have the following meanings:

- (a) *Owner* in the context of short-term rental means the record owner of the property or any person or entity that leases from the record owner of the property, who engages in the business of furnishing for lease or for rent, either directly or through a third-party entity, a *short-term rental unit* and who must be licensed both as a business and under this Chapter.
- (b) *CAPS* is the maximum number of properties that may be licensed for short-term rental use, calculated as a percentage of total developed dwelling units and developable lots within each zoning district. Total properties are based on the records of the County Assessor's Office as of December 31 of each preceding year.
- (c) *An authorized agent* is an owner, the owner's agent, or the owner's designee who is normally available and authorized to respond to any issues arising from a short-term rental unit within two (2) hours and who is authorized to receive written notice on behalf of the owner.
- (d) *Non-Conforming Use* is a use which was lawfully established and maintained, but which does not comply with the use regulations applicable to new uses in the zoning district in which it is located; the use any of any land, building, or structure which does not conform with currently applicable use regulations, but which complied with use regulations in effect

at the time the use was established.

- (e) *Provisional Lot License (PLL)* is a license that provides the owner of a vacant developable lot (hereafter referred to as "lot") the right to obtain a STR License. The PLL is valid for 3 years from issuance and guarantees the owner the right to obtain a Rental Business License upon issuance of a Certificate of Occupancy (CO). In the event construction is in the process, but a CO has not been issued, the PLL holder may appeal the expiration of the PLL to the Town Treasurer for an extension of up to 120 days.
- (f) *Short-term rental (STR) property* means an accommodation, rented or leased for less than thirty (30) consecutive days, used in a manner consistent with the residential character of the dwelling, when the property on which the accommodation is located is assessed, for county property tax purposes, as residential property. **Exceptions:** Rental properties that are available for rent for a period not to exceed 14 calendar days in a calendar year are exempt from the provisions of this Ordinance. Hotels, motels, inns, and bed and breakfasts are not considered STRs.

Any property which is leased from its owner on a long-term lease basis (30 days or greater), then made available by the leasee for short term rental or occupancy to a different party shall be considered a short-term rental and both lessor and leasee are subject to this ordinance. Vacation time-sharing plans are not short-term rentals and are not allowed pursuant to Section 14-201 of this Code.

- (g) *Destination or Private Vacation Clubs ("Destination Clubs")* are classified as private and/or exclusive membership organizations or commercial businesses primarily engaged in providing short-term overnight accommodations and related services for its club members with non-ownership interest who seek alternative options to standard vacation home rentals. Destination Clubs typically own or lease properties from the owners on a long-term basis, provide those properties in a variety of locations to its members on a short-term basis, and model a membership access structure where its members purchase membership levels granting access to properties and personalized services. Properties offered by Destination Clubs to a member for less than thirty (30) days are considered STRs whether the Destination Club is an owner of record or a lessee. All references to "owners" in this Chapter apply to Destination Clubs

### Sec. 15-802. – Rental Business License Application

The town shall not grant a rental business license for a STR until the following conditions are satisfied:

- (a) An Owner or the Authorized Agent on behalf of the owner is required to obtain an annual Class 7 Rental Business License from the Town for each STR property prior to advertising or renting.
- (b) A Rental Business License application shall be completed for each STR by the owner or its authorized agent. The signed Rental Business License application shall be a legal and binding agreement acknowledging that all town ordinances and rental regulations shall be adhered to for the duration of the Rental Business License. The Rental Business License application shall be submitted, and subject to review, annually.

An owner of a lot within the R1/R2\* area (see Table 15-805.1) may apply for a Rental Business License. Upon receipt of a completed application, the Town will issue, based on the availability of such licenses, a PLL.

- (c) The annual application fee for the Rental Business License, including lot applicants, is \$500 for any property in the R1 or R2 zoning districts subject to caps; \$200 for all other properties. In the event a license is not granted due to licenses being capped, the application fee will be suspended until such time that the application is approved, and a license is awarded. A license is nontransferable between owners. A change in ownership of the STR property shall require the new owner or its authorized agent to apply for a new license for the dwelling unit or lot, subject to license availability. The previous owner is responsible for all charges prior to the change of ownership and is responsible for properly closing his/her license with the Town of Kiawah Island.
- (d) If the applicant is someone other than an owner, the applicant shall submit a copy of the owner's written authorization of the applicant's right to apply for the rental business license. Where the property is leased to the applicant, the applicant must attach a copy of the lease.

### Sec. 15-803. – Permit and Operating Requirements

- (a) It shall be the sole responsibility of the STR owner directly or through his or her authorized agent to notify and educate the guests of all applicable STR rules and regulations, including all rules encompassed in Section 15-806.
- (b) No owner or his or her agent may advertise a STR property in any manner that would constitute a violation of this chapter. The property owner and his/her authorized agent shall be jointly responsible for the accuracy of advertising of all STR properties as required in 15-803(c).
- (c) The advertisement of any STR properties must include the rental business license number, the maximum number of vehicles permitted for overnight parking, number of approved bedrooms, and the maximum allowable occupancy
- (d) Prior to the issuance of a STR rental business license, all first-time STR's applying for a license or any property requesting a change in the number of bedrooms or a change in parking capacity are subject to and must pass a rental property inspection pursuant to Section 15-803 (e).
- (e) All rental properties shall remain compliant with the current edition of the International Property Maintenance Code (IPMC). All STR properties are subject at any time, with notice, to inspection for compliance to the IPMC and/or Town ordinances. Inspections will include, but not limited to:
  - i. Smoke Alarms. Smoke alarms are required in each bedroom and the hall leading to the bedroom.
  - ii. Carbon monoxide detector.

- iii. Sprinkler System. If the residence has a fire sprinkler system, it shall be the owner's or their authorized agent responsibility to furnish documentation to the code enforcement officer that their sprinkler system received an annual inspection and is in proper working order.
- iv. Fire Extinguishers. A fire extinguisher meeting the requirements as a 1-A: 10-B:C shall be under the kitchen sink in all rental units.
- v. Vehicle Parking Spaces. Verification of the number of vehicle parking spaces permitted on site as set forth in Sec. 15-806 (d).
- vi. Bedroom Count. Verification of the number of bedrooms within each rental unit as set forth in Sec. 15-806 (c).
- vii. Structural Elements. Decks, stairs, handrails, and guardrails including boardwalks.
- viii. Enclosed Trash Receptacles. Trash receptacles shall be enclosed in a garage or approved screened enclosure.
- ix. Posted Address and Contact Information and Rules and Regulations. Each rental unit shall furnish the property's address, and the owner's or authorized agent's contact information, including all other information required by Section 15-806, inside the unit in a visible place to occupants in the event an emergency.

#### Sec. 15-804. – Rental Business License

- (a) Article 4 – Finance and Taxation, Chapter 3. - Municipal Business Licenses, regulates all business licenses. The following additional regulations apply specifically to STR business license.
- (b) A short-term Rental Business License expires annually on December 31<sup>st</sup>. License holders must renew each calendar year and have until February 28<sup>th</sup> of the following year to renew their license without penalty. As of March 1<sup>st</sup>, if the holder of an expired license submits a renewal request, one of the following conditions shall apply:
  - 1) If the property is in an R1 or R2 zoning district, and the License Cap in Table 15-805.1 has not been reached, the license is renewable subject to a \$1000 late fee, plus all applicable fees.
  - 2) For properties in all other zones, the license is renewable subject to a \$1000 late fee, plus all applicable fees.
  - 3) If the property is in an R1 or R2 zoning district subject to caps, and the Town is unable to issue a STR business license solely due to the percentage Caps established herein, (see 15-805.1), a new application can still be filed, and the applicant will be placed on a waiting list. If a permit becomes available, the Town will notify the applicant who has been on the waiting list the longest and allow him/



her 7 business days to provide the Town with any and all information necessary to ensure the application is current and otherwise complies with the ordinance. If the applicant fails to respond and/or provide current information within 7 business days, the Town shall remove the applicant from the waiting list and repeat the process until a STR business license, or PLL, has been issued, or all of the applicants on the waiting list have been notified.

- 4) Late renewals (after the close of business on Feb 28<sup>th</sup>), are not permitted for non-conforming use properties previously holding a valid STR business license, including Destination or Vacation Clubs.
- (c) A license holder shall provide proof of accommodation tax payments for the previous year at the time of license renewal. Failure to pay all required accommodation taxes constitutes grounds to not renew a rental business license.
- (d) All fees related to STR business licenses must be paid in full at the time of application. Upon the closing of the license, the licensee is responsible for notifying the Town and properly closing their account.

### Sec. 15-805. – Short-term Rental Property Caps

Short term rental Caps are established in the R1 zoning district and identified R2 zoning districts (see Table 15-805.1 for details). The limitations and requirements of this section apply to short-term rental properties in the Town's R1 and R2\* zoning districts.

- (a) License Caps. Licenses for rental properties shall be distributed on a first-come, first-serve basis. Active licenses expire annually on December 31 of each year. Applications received after February 28<sup>th</sup> are subject to late fees as defined in Sec. 15-804(b)(1)(2).
  - 1) Properties holding a rental business license will have first preference to renew by February 28<sup>th</sup> to maintain their license, as long as the license is in good standing with the Town.
  - 2) Available licenses are subject to the percentage of rental caps allowed within the zoning district, pursuant to Table 15-805.1, Rental Property Zoning Caps.
  - 3) If a license cap is reached within the R1/R2\* zoning district, the applicant will be placed on a waiting list until a license becomes available, consistent with provisions in Section 15-804 (b)(3).
  - 4) STR or PLL licenses are not transferable. In the event of the transfer of property ownership, including the transfer of interests in corporations or partnerships that own a licensed property, the new owner may apply for a new STR or PLL license, subject to Section 15-802 and all other provisions of this ordinance. **Exception:** Intra-family transfers of property can include the transfer of a STR or PLL license.
  - 5) A license may be subject to expiration or may not be renewed should an owner report <\$3,000 of annual rental revenue. In the event of annual revenue below

## REVISED SHORT-TERM RENTAL ORDINANCE FOR TOWN COUNCIL CONSIDERATION 11.05.19

\$3,000, an owner will need to demonstrate the short-term rental property was available and advertised for rental throughout the previous year.

- (b) In calculating the number of rental business licenses available in any calendar year, the calculation will be based on the percentages defined in Table 15-805.1

Table 15-805.1: Rental Property Zoning Caps			
Zoning District	R-1 and R-2*	All other R-2	R-3
Maximum % of STR properties allowed	20%	No Limit	No Limit
<i>Rental percentages are a ratio of rental licenses (including PLL's) to developed lots within the R1 zoning district, and the specific R2 zoned areas identified below. Developed lot numbers are defined from the County Assessors Office as of December 31 of the prior calendar year.</i>			
<i>*R-2 districts include: Indigo Park, Ocean Oaks, Ocean Park, and Silver Moss, Osprey Point (Club Cottage Lane, Marsh Cottage Lane, and Shell Creek Landing)</i>			

- (c) Destination Clubs and Private Vacation Clubs are not permitted by the Town's zoning regulations in Residential Zones R1, R2, and R3 unless the Destination Club complies with the following requirements:

- 1) The Destination Club obtains a STR business license for each property;
- 2) The Destination Club pays all required State Sales Tax (8%), State (2%), County (2%) and Local Accommodation (1%) Taxes on gross receipts collected from STR's;
- 3) The Destination Club complies with all other rules and regulations applicable to STR's;
- 4) The Destination Club provides no commercial services on the subject property; and
- 5) The owner of the property, if different from the Destination Club obtains a standard business license.

Any applicable properties in R1, R2, or R3 holding a valid STR business license as of the effective date of this ordinance shall be grandfathered and included in calculating the license cap, subject to the following conditions:

- 1) Residential Business Licenses expire as of December 31<sup>st</sup> of each year. The license holder has until February 28<sup>th</sup> of the following year to renew. Failure to

renew by the close of business on February 28<sup>th</sup> will result in the expiration of the license.

- 2) No late renewals will be permitted for non-conforming use properties, including Destination Clubs and Vacation Clubs.
  - 3) All grandfathered properties shall remain subject to the requirements of this Chapter as STRs.
- (d) Destination Clubs and Private Vacations Clubs are permitted in Zones R2/Commercial, R3/Commercial, RST-1, RST-2, RST-1/R3, R-2(DA), R-3(DA), and RST-2(DA) are subject to the approval of uses prescribed in the Zoning Ordinance and the requirements of this Chapter as STRs.

### Sec. 15-806. - Notice of Rental Residence Rules and Regulations

- (a) The Town shall promulgate and distribute Rules and Regulations applicable to the rental of residential property to all property management companies and/or the owners. An owner or authorized agent shall furnish a copy of the rules and regulations to each rental guest. In addition, the owner (or authorized agent) shall post a copy of the rules and regulations in a visible location within each rental unit.
- (b) Local Contacts.
- 1) The owner (or authorized agent) who does not reside within the Charleston Metro Area must identify an individual or individuals to serve as local contacts and be authorized and able to respond to emergency conditions or complaints affecting the property and to inquiries from all entities having jurisdiction over the rental property.
  - 2) The owner (or authorized agent) must have a 24-hour contact phone number posted in a visible location within each unit
  - 3) A local contact designated under subsection (1) must be present within the Charleston Metro Area and be accessible and available to respond within two hours after being notified of an emergency by a guest of the short-term rental, or by a Town employee during any 24-hour period.
  - 4) If there is a change to a local contact, the owner or authorized agent must provide updated or new information to the Town of Kiawah Island Business License Department in writing within three business days.
- (c) Maximum Occupancy. The maximum occupancy for all short-term rental properties is two occupants per code-compliant bedroom. Two additional occupants are allowed per dwelling unit. *As an example, a four-bedroom rental property shall have a maximum of ten occupants.* Children under the age of 2 are not included in calculating maximum occupancy.
- 1) The number of bedrooms for purposes of determining occupancy shall be based on Charleston County Property Tax records. Should a rental business license applicant seek to claim more bedrooms than shown on Charleston

## REVISED SHORT-TERM RENTAL ORDINANCE FOR TOWN COUNCIL CONSIDERATION 11.05.19

County records, the owner or its agent shall contact the town code enforcement office for review and determination prior to renting the unit. Such review will consider the additional bedrooms per the building code requirements.

- 2) Temporary conversion of rooms such as dining rooms, living rooms, studies, etc., for use as bedrooms for rental purposes, is not permitted.

(d) Parking and Driveways. The maximum number of vehicles permitted for overnight parking for each single-family dwelling unit shall be in accordance with the number of parking spaces as defined on the rental application.

- 1) Vehicles may only be parked on permanent paved or gravel parking surfaces, as approved by the Town or other entity having jurisdiction. Parking on grass or landscaped areas is prohibited at all times.
- 2) Vehicles must be parked in a manner that permits the free passage of emergency vehicles. Overnight parking in driveways must allow emergency vehicles to within 25 feet of the residence.
- 3) If a garage is utilized to determine allowable parking, access shall be provided at all times that the short-term rental is operational.
- 4) Parking for villa units shall be in parking lots that are integral to the villa complex.
- 5) Pickups greater than one-half ton, and cargo vans greater than 12 passengers, recreation vehicles (RVs), buses, trailers, boats, and other large vehicles are prohibited from parking overnight at residential dwellings. Vehicles shall not be used for sleeping or overnight accommodations.
- 6) STR properties must comply with St. Johns Fire District requirements and applicable Architectural Review Board regulations for residential zoning districts (R-1, R-2, and R-3) which require that driveway clearance for fire trucks be a minimum of ten feet wide for straight drives and have a height clearance of 13.6 feet.

(e) Trash Collection.

- 1) Rental dwelling units shall subscribe to back-door trash collection two times per week, including recycling service. Trash receptacles shall be stored in an enclosed garage or approved screened enclosure whereby the receptacles are not visible from the street.
- 2) Villas shall use provided dumpsters for trash disposal. Dumpster pick-up service shall be sufficiently frequent to avoid trash overflow. Dumpsters shall be stored on an approved screened pad.

(f) Bicycles, beach gear, and other personal articles shall not be visible from the street side or adjoining properties for all single-family dwellings and multi-family dwellings. These articles shall be placed in the appropriate storage location overnight and shall not be left



in a driveway, yard, or parking lot. No articles of clothing, beach towels, or other items shall be draped over railings or deck chairs or be visible beyond property lines.

- 1) Villa complexes shall provide adequate bicycle racks for overnight bicycle storage. All other gear shall be stored indoors or in provided storage closets.

- (g) All exterior lighting shall comply with Article 16 – Beach Management, Chapter 1. - Beach Lighting, which regulates beach lighting to protect sea turtle hatchlings.

## Sec. 15-807. - Violation of Rental Regulations

- (a) It shall be a violation of this chapter to:

- 1) Operate a rental property without complying with the requirements of this chapter and the Town code of ordinances;
- 2) Make a misrepresentation on a short term rental business license application;
- 3) Advertise, offer, or otherwise make available, a property as being available as a rental without first complying with the requirements of this chapter; excluding properties exempt from these provisions of the rental program not exceeding 14 calendar days on an annual basis;
- 4) Expand the allowable occupancy or parking of a rental unit without obtaining a new license;
- 5) Advertise a rental property as being available for more overnight occupants than have been permitted pursuant to this chapter;
- 6) Advertise or rent separate guest houses or pool houses as an independent rental unit. Such units can be included under a rental business license issued to a single address, but it cannot be rented as a stand-alone unit;
- 7) Rent out a portion only of the rental or individual rooms of a property, to include detached homes, villas, cottages, and any other property designation. No rental business license will be issued unless the subject property is to be rented in its entirety. Owners are permitted to lock off closets or bedrooms from guest access;
- 8) Operate a commercial business in a STR property. Examples include, but are not limited to catering, telemarketing, or distribution of goods; and
- 9) Prune or otherwise alter vegetation and dunes without the required permits from the Town or other applicable jurisdiction (Kiawah Island Community Association, or the Kiawah Island Architectural Review Board).

## Sec. 15-808. – Liability

- (a) Any person violating any provision of this ordinance shall be subject to a fine of up to \$500 plus required statutory assessments or imprisonment for not more than 30 days, or both, upon conviction. Each day of violation shall be considered a separate offense. Punishment for the violation shall not relieve the offender of liability for delinquent taxes, penalties, and any other costs.
- (b) An owner may authorize an agent or property management firm to comply with the requirements of this ordinance on behalf of the owner. However, the owner shall not be relieved from any personal responsibility and personal liability for noncompliance with any applicable law, rule or regulation pertaining to the use and rental of the STR property, regardless of whether such noncompliance was committed by the owner's authorized agent, local contact person, renter or guest of the short-term rental.
- (c) A property management firm or authorized agent shall be jointly and severally liable for any violations occurring on any of its managed STRs in the Town.

### Sec. 15-809. – Revocation or Suspension of a Short-term Rental Business License

In addition to applicable fines and penalties:

- (a) The failure of the rental business licensee to comply with any sections of this ordinance shall constitute grounds for the suspension or revocation of the license. Any action to suspend or revoke the license shall be conducted by the Treasurer or designee in accordance with Municipal Code, Chapter 3, Municipal Business License, Section 4-315.
- (b) Any property with three violations of this ordinance during any 12-month rolling period and found guilty by admissions or by the Municipal Judge will be considered cause for license revocation. The owner or agent may reapply for a new STR license no sooner than twelve months after revocation, subject to all provisions contained herein.

On receipt of notice of revocation or suspension, the owner (or authorized agent) shall immediately stop the operation of the short-term rental establishment. All advertisements for future short term rentals shall immediately cease. If such property is advertised or occupied by short term renters after the revocation or suspension of the STR license, fines shall be levied against the owner and agent.

### Sec. 15-810. - Appeals to Town Council

- (a) A person aggrieved by the town's decision to revoke, suspend, or deny a rental business license may appeal the decision to the town council. The appeal must be filed in writing within 30 calendar days with the Town Clerk after the revocation, suspension, or denial and it shall set forth a concise statement of the reasons for the appeal. Timely filing of an appeal shall stay the revocation, suspension, or denial, pending a decision on the appeal by the Town Council.
- (b) The Town Council shall consider the appeal in an open hearing at a regular or special meeting within 30 calendar days after receipt of a request unless otherwise agreed to, in writing, by the town and the aggrieved party.



Tab | 9

**TOWN COUNCIL**

**Agenda Item**

## TOWN OF KIAWAH ISLAND

### ORDINANCE 2019-07

**AN ORDINANCE TO AMEND CHAPTER 12, LAND USE PLANNING AND ZONING OF THE TOWN OF KIAWAH ISLAND, BY AMENDING ARTICLE II, DIVISION 3, SECTION 12-102. – PRINCIPAL USES AND USE REGULATIONS; ARTICLE IV, SECTION 12-374. – DEFINITIONS; AND ADDING ARTICLE II, DIVISION 3, SECTION 12-107. – SHORT-TERM RENTALS**

**WHEREAS**, the Town of Kiawah Island now finds that, upon further review, it wishes to amend the Division 3 - Use Regulations by amending Section 12-102. – Principal Uses and Use Regulations, Table 3A Authorized Uses in Zoning Districts to add a new permitted use - Destination or Private Vacation Clubs with its permitted uses by right and as a conditional use; to add Section 12-107 – Short-Term Rentals; and by amending Section 12-374 – Definitions; and

**WHEREAS**, the Town of Kiawah Island wishes to ensure public safety and ensure rental properties do not detract from the neighborhoods in which they operate.

**WHEREAS**, the text amendment would be consistent with the purposes and intent of the adopted Town of Kiawah Island Comprehensive Plan; and

**WHEREAS**, the text amendment would be compatible with surrounding land uses and would not be detrimental to the public health, safety and welfare; and

**WHEREAS**, the Planning Commission held a meeting on August 21, 2019, at which time a presentation was made by staff, and an opportunity was given for the public to comment on the text amendment request; and

**WHEREAS**, the Planning Commission, after consideration of the staff report, subsequently voted to recommend to Town Council that the subject request be approved; and

**WHEREAS**, a properly noticed Public Hearing was held on October 1, 2019 providing the public an opportunity to comment on the proposed amendments; and

**NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE COUNCIL OF THE TOWN OF KIAWAH ISLAND, SOUTH CAROLINA, AND IT IS ORDAINED BY THE AUTHORITY OF SAID COUNCIL**

#### **SECTION 1     Amendment**

That the Town of Kiawah Island Zoning Ordinance, be, and the same hereby amended as follows in “**Attachment A.**”.



## **SECTION 2    Severability**

If any part of this Ordinance is held to be unconstitutional, it shall be construed to have been the legislative intent to pass said Ordinance without such unconstitutional provision, and the remainder of said Ordinance shall be deemed to be valid as if such portion had not been included. If said Ordinance, or any provisions thereof, is held to be inapplicable to any person, group of persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property or circumstances.

## **SECTION 3    Effective Date and Duration**

This Ordinance shall be effective on January 1, 2020.

**PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF KIAWAH ISLAND  
ON THIS 5<sup>th</sup> DAY OF NOVEMBER 2019.**

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Craig Weaver, Mayor

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Petra Reynolds, Town Clerk

First Reading: October 1, 2019

Public Hearing: October 1, 2019

Second Reading: November 5, 2019

## CHAPTER 12 – LAND USE PLANNING AND ZONING

## ARTICLE II – ZONING

## DIVISION 3. - USE REGULATIONS

## Sec. 12-102. - Principal uses and use regulations.

- (a) Purpose and intent. Principal uses are the uses permitted in each zoning district. These are shown in table 3A in subsection (c) of this section, authorized uses in zoning districts. The intent is to allow and regulate uses which are deemed compatible with the purpose of that district, with or without conditions; or to restrict uses.
- (b) Use regulations are conditions of use. These conditions are requirements which must be met to comply with this article.
- (c) The following three classifications of use are permitted, conditional and special exception as defined in this subsection and as listed in table 3A in this subsection (where no classification of use is shown (blank cell), that use is prohibited in the zoning district):
- (1) *Permitted use (P)*. Permitted use is the principal use allowed in a zoning district. It is a use of right. By way of example, single-family detached dwelling units are permitted in all residential zoning districts, R-1, R-2 and R-3. However, multifamily residential units are only permitted in the R-3 zoning district. The letter P indicates that a use type is a permitted use.
  - (2) *Conditional use (C)*. Conditional uses are uses that are permitted within a zoning district only when the identified conditions for that particular use have been met and the zoning permit application approved by the Planning Director. Conditions for each use are specified in section 12-103, conditions of use. The letter C indicates that a use type is a conditional use.
  - (3) *Special exception (S)*. Special exceptions may only be granted by the Board of Zoning Appeals. These are uses which are generally compatible with the permitted land uses in a zoning district, but which require specific review of the location of the site and the design, configuration and operation of the proposed use, as well as the possibility of imposition of conditions in order to ensure the compatibility of the use at a particular location within the zoning district. Section 12-161 provides a complete description and requirements for special exceptions. The letter S indicates that a use type requires a special exception.

Table 3A. Authorized Uses in Zoning Districts															
P=Permitted Use				C=Conditional Use			S=Special Exception			Blank Cell=Prohibited Use					
Use Category				Zoning Districts										Conditional Use Reference	PR-OC
				R-1	R-2	R-3	C	RST-1	RST-2	CS	CS-2	PR	PD		
Principal Uses															
Residential															

Single-family detached <sup>1</sup>	P	P	P					P	C		(a)	P
Single-family attached, also known as townhouses or patio homes <sup>1</sup>		P	P					P	C		(a)	P
Duplex <sup>1</sup>		P	P					P	C		(a)	P
Multifamily (including townhouses and apartments) <sup>1</sup>			P					P	C		(a)	P
Civic/institutional												
Courts and public safety												
Court of law								P	P			
Safety services, including emergency medical or ambulance service, fire protection or police protection								P	P			
Educational services												
Day care									C		(a)	
Preschool or educational nursery				C					C		(b)	C
Personal improvement education, including golf or fine arts schools					C	C			C		(b)	C
Health care services												
Physicians' and dentists' offices				P					C		(c)	
Medical clinics-outpatient services				C							(c)	
Museums, historical sites and similar institutions												

Historical sites	C	C	C	P	C	C	C	P	P	C		(d)	P
Libraries or archives				P	C	C	C	P		C		(d)	
Museums or art galleries				P	C	C	C	P		C		(d)	
Nature exhibitions					C	C			P	C		(d)	P
Botanical gardens or arboretums				P	C	C			P	C		(d)	P
Postal service													
United States Postal Service				P						C		(e)	
Recreation and entertainment													
Community recreation, including sports activities, playgrounds and athletic areas or swimming areas (beaches and pools)				C	C	C		P	C			(f)	C
Golf courses or country clubs									C			(f)	C
Parks	P	P	P	P	C	C	C	P	P	C	P	(f)	P
Motion picture and live theaters				C	C	C						(f)	
Recreation or vacation camps				C					C			(f)	C
Recreational equipment storage				C	C	C	C	C	C			(f)	C
Religious, civic, professional and similar organizations													
Business and professional organizations				P				P					
Social or civic organizations,				P				P					



including youth organizations, sororities or fraternities														
Church, synagogue, temple or religious assembly				P	P		P	P						
Utilities and waste-related uses														
Utility service, major														
Electric substation				S	S	S	S		C		(a)			
Electrical or telephone switching facilities							C					(g)		
Electricity or water maintenance facilities							P	.						
Sewage pumping control stations	S	S	S	C	C	C	P		C	C		(g)		C
Sewage sludge drying beds							P	.						
Water pressure control stations				C	C	C	P		C			(g)		C
Water or sewage treatment facilities							P	.						
Water storage tanks							P			C		(a)		
Utility service, minor														
Electric or gas power distribution	C	C	C	C	C	C	P		C	C		(g)		C
Sewage collection service lines	C	C	C	C	C	C	P		C	C		(g)		C
Commercial accommodations														
Hotels or inns					C/S	C/S						(h)		

<u>Destination or Private Vacation Clubs</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>				<u>C</u>		<u>(v)</u>	
Financial services													
Banks				C								(i)	
Financial services, including loan or lending services, savings and loan institutions or stock and bond brokers				C								(i)	
Food and beverage services													
Bar or lounge (alcoholic beverages), including taverns, cocktail lounges or member exclusive bars or lounges				S	S	S							
Catering services				C	C	C						(j)	
Restaurant, general, including cafeterias, diners, delicatessens, or full-service restaurants or accessory uses to a golf course, clubhouse or recreational area (without alcoholic beverages)				P	C	C		C	S	C		(j)	
Restaurant, general, including cafeterias, diners, delicatessens, full-service restaurants or accessory uses to a golf course, club house, or recreational area (with alcoholic beverages)				C	C	C		C	C/S	C		(j)	S
Information industries													
Advertising services (not including advertising signs)				C								(k)	C/S

News syndicate services				P				.					
Radio and television broadcasting studios (only)				C	C	C						(k)	
Data processing services				P				.					
Offices													
Real estate sales and services				P	P	P				C		(a)	
Administrative or business office, including bookkeeping services, couriers, insurance offices, personnel offices, real estate services, secretarial services or travel arrangement or ticketing services				P				P					
Government offices				P				C	C		C	(a)	
Legal and other professional services, including accounting, tax preparation, architectural or engineering				P									
Other nonresidential development													
Communications towers								C	C	C	C	(m)	C
Convention center, visitors bureaus or conference center				C		P		C	P			(n)	
Repair and maintenance services													
Repair service, consumer, including appliance, shoe, watch, furniture, jewelry				C								(o)	

or musical instrument repair shops													
Vehicle service, limited, including automotive oil change or lubrication shops or carwashes (enclosed area only)				C			C					(o)	
Retail sales													
Nonstore retailers													
Direct selling establishments				C								(p)	
Electronic shopping or mail order houses				C								(p)	
Building materials or garden equipment and supplies retailers													
Hardware stores				C								(p)	
Home improvement centers				C									
Garden supplies centers or nursery and greenhouse retail centers				C								(p)	
Paint, varnish, glass or wallpaper stores				C								(p)	
Food sales, including grocery stores, meat markets or butchers, retail bakeries or candy shops				C								(p)	
Liquor, beer, or wine sales				C								(p)	
Retail sales or services, general													
Antique stores				C								(p)	

Department store or limited price variety stores				C								(p)	
Art, hobby, musical instrument, toy, or related products stores				C	C	C						(p)	
Sporting goods or bicycle retail and rental				C	C	C						(p)	
Book, stationary, newspaper, or magazine retail				C	C	C						(p)	
Cameras or photographic supplies stores				C	C	C						(p)	
Clothing, piece goods, shoes, jewelry, luggage, leather goods or related products stores, florists				C	C	C			C			(p)	C
Convenience stores (less than 5,000 square feet gross floor area per establishment)				C	C	C						(p)	
Drug stores or pharmacies (less than 5,000 square feet gross floor area per establishment)				C	C	C						(p)	
Electronics, appliance, electrical supplies or related products stores				C								(p)	
Furniture, cabinet, home furnishings, or related products stores				C								(p)	
Gifts, novelties and souvenir stores				C	C	C						(p)	



	Optical goods				C								(p)	
	Private postal or mailing services				C								(p)	
	Tobacconists				C	C	C						(p)	
	Service stations, gasoline (with or without convenience stores)				C								(p)	
Retail or personal services														
Consumer convenience services														
	Locksmiths				C								(p)	
	Tailors or seamstresses				C	C	C						(p)	
	Hair, nail, or skin care services, including barbershops or beauty salons				C	C	C						(p)	
	Personal improvement services, including health or physical fitness studios, reducing studios and spas				C	C	C						(p)	
	Photographic services, including one-hour photofinishing				C	C	C						(p)	
Construction services														
	Construction services								C				(q)	
Warehouse and storage facilities														
	Warehouse and storage facilities								C				(r)	
Vehicle storage														
	Vehicle storage, including boat or								C				(s)	

RV storage															
Recycling services															
Recycling collection, dropoff							C	C					(t)		
Transportation															
Taxistands				C	C	.	C								
Bus passenger stands				C	C	C							(u)		

<sup>1</sup> Dwelling units may be attached to and integrated with non-residential buildings, but shall be no more than four dwelling units in any building with the PR-OC district.

(Code 1993, § 12A-301; Ord. No. 94-12, § 2(12A-301), 9-26-1994; Ord. No. 2005-08, § 12A-301, 10-12-2005; Ord. No. 2006-08, § 2.1(12A-301), 11-7-2006; Ord. No. [2016-04](#), § 1, 9-6-2016; Ord. No. [2017-10](#), § 1(Exh. A), 7-11-2017; Ord. No. [2017-14](#), § 1(Exh. A), 7-11-2017; Ord. No. [2018-05](#), § 1(att. A), 5-1-2018)

Sec. 12-103. - Conditions of use.

- (a) *Planned development.* Planned developments shall follow the planned development provisions contained in sections 12-73 and 12-159, and the code text and zoning district map amendments provisions contained in section 12-158.
- (b) *Educational services.* Educational services are those services offered for the exclusive use of residents, on island employees and guests of Kiawah Island for instruction and care of their dependent children. The following conditions must be met for an educational services use:
  - (1) Proof of application for the facilities license from the South Carolina Department of Social Services where appropriate;
  - (2) Play areas within 50 feet of a residential zoning district shall be buffered pursuant to section 12-127;
  - (3) Off-street parking requirements contained within this article are met and are buffered in accordance with section 12-128;
  - (4) Site plans for ingress/egress, loading/unloading and the location of the parking areas are approved by the Planning Director; and
  - (5) Proposed outdoor lighting of the facility does not negatively impact neighboring properties or the beachfront.
- (c) *Health care services.* These services include medical clinics with outpatient services, physicians' and dentist's offices. Outpatient clinics, including offices for physicians or dentists, shall be limited to 2,000 square feet of floor area and shall not provide a base for emergency medical vehicles or

service unless approved as a special exception pursuant to special exception provisions contained in this article.

(d) *Museums, historical sites and similar institutions.*

- (1) Historical sites within residential areas shall be restricted to the hours between 7:00 a.m. and 8:00 p.m.
- (2) Historical sites, libraries, archives, museums and/or art galleries shall be completely housed within the principal use.
- (3) Nature exhibitions.
  - a. Where nature exhibitions are of public ownership or listed in the National Registry of Natural Landmarks or registered as a Heritage Site with the South Carolina Heritage Trust in accordance with the provisions of Act No. 600 of the 1976 Acts and Joint Resolutions, either in public or private ownership, accessory uses to acquire maintenance revenue are permitted.
  - b. Accessory uses are limited to the retail sale of gifts, novelties, souvenirs, and food services. Accessory structures so used shall not exceed ten percent in size of the principal structures when the nature exhibit is housed, or 1,200 square feet for each acre when the nature exhibit is not enclosed.
  - c. Parking requirements for each accessory use, in addition to the parking requirements for the principal use, shall comply with the parking requirements of section 12-128.
  - d. Signs advertising accessory uses shall be located on the premises and not visible from a public road.
- (4) Botanical gardens and/or arboretums shall be housed completely on the grounds of the principal use.

(e) *Postal Service of the United States.* Any postal service facility shall have a maximum floor area of 5,000 square feet or less.

(f) *Recreation and entertainment.* The following standards shall apply to approval of a site plan for community recreation, including, but not limited to, sports activities, playgrounds, athletic areas or swimming areas and recreation or vacation day camps:

- (1) All parks with soccer, baseball and similar playfields shall meet all off street parking requirements of section 12-128. The Planning Director shall determine the need for additional spaces based on available parking studies for similar uses in similar communities;
- (2) All parking areas and recreational equipment storage areas shall meet the buffering requirements of section 12-127 and be screened from view from any adjacent residential use. Screening shall be opaque and shall be at least four feet in height. Screening may be masonry or natural materials if approved by the Planning Director;
- (3) Small passive parks of one acre or less within residential neighborhoods shall have no parking requirements;
- (4) Be designed so that light sources are shielded from adjacent single-family residential properties and the beachfront.

(g) *Utilities and waste-related uses.*

- (1) Aboveground water storage tanks, sewage pumping stations, telephone relay towers, electric regulating substations and similar utility/communications structures shall comply with the following standards:
  - a. Facilities shall be located at least 50 feet from any residential property line;

- b. Facilities shall be secured by a fence located at least 25 feet from any residential property line;
  - c. Facilities shall be surrounded by a buffer pursuant to section 12-127;
  - d. Telephone exchange stations and communications towers shall be limited to unmanned facilities, and shall provide at least two parking spaces for service vehicles; and
  - e. Radio transmitting stations and towers shall be set back from zoning district boundaries a distance equal to their height.
- (2) Communications, utility distribution lines and water transmission lines shall be located underground in all districts.
- (3) The equipment set forth in this subsection is permitted in all zoning districts. Aboveground equipment (e.g., pad-mounted transformers) shall be screened from public view:
- a. Electrical pedestals.
  - b. Electrical pad-mounted transformers.
  - c. Electrical switch gear cabinets.
  - d. Electrical service meters.
  - e. Telephone equipment cabinets.
  - f. Telephone pedestals.
  - g. Irrigation controllers.
  - h. Backflow preventors.
  - i. Cable television amplifiers.
  - j. Other such similar equipment, typically installed above ground.
- (4) *Utility cabinets, utility structures.* For utility cabinets which measure approximately nine feet in length by six feet in width, and once installed, stand approximately five feet above grade, and for any other utility structures which the zoning administrator determines are similar in size and impact on the community shall be treated as accessory structures and the following standards shall apply:
- a. Structure shall not be located on property zoned for residential use and must be located a minimum of ten feet from any residential property line.
  - b. Structure shall be surrounded by a landscaped buffer, pursuant to section 12-127.
- (h) *Commercial accommodations.* Hotels or inns providing more than 50 guestrooms shall comply with the special exception provisions of this article or shall be a part of a development agreement.
- (i) *Financial services.*
- (1) Automated teller machines (ATM), stand-alone.
  - (2) ATMs shall be walk-up style and shall be permitted as accessory uses.
- (j) *Food and beverage services.*
- (1) *Bars, cocktail lounges, taverns.*
    - a. Bars or lounges, including taverns, cocktail lounges or member exclusive bars or lounges serving alcoholic beverages are only permitted in restaurants, private clubs, hotels, inns, or country clubs.
    - b. Where applicable, these uses shall comply with the special exception provisions of this article.

- (2) *Catering services.* Catering service facilities shall only prepare and store food in permitted restaurants, private clubs, hotels, inns, or country clubs.
- (3) *Restaurant, general.* All general restaurants not a part of a hotel, inn, private club or country club and occupying over 2,000 square feet of floor area shall comply with the special exception provisions of this article.
- (4) Restaurant, café, coffee shop or snack bar is only permitted in the CS-2 as an ancillary use to the building's primary function as office and meeting space.
- (5) Be designed so that light sources are shielded from adjacent single-family residential properties, and property zoned R-2.
- (k) *Information industries.*
  - (1) *Advertising services.* All advertising associated with this use shall be contained within the structure and not visible, except for any permitted sign, on the exterior of the structure.
  - (2) *Radio and television broadcasting studios.* All radio or television broadcast studios shall be located within a structure. No mobile radio or television broadcast stations are permitted as a permanent use. Temporary use permits may be granted if applicant complies with temporary use permit requirements.
- (l) *Government offices.* Government offices shall:
  - (1) Meet the buffer requirements of section 12-127;
  - (2) Provide off-street parking as required in section 12-128; and
  - (3) Be designed so that light sources are shielded from adjacent single-family residential properties.
- (m) *Communications towers.*
  - (1) *Purpose and legislative intent.* The Federal Telecommunications Act of 1996 affirmed the Town of Kiawah Island's authority concerning the placement, construction and modification of wireless telecommunications facilities. The regulations of this section are designed to site communications towers on Kiawah Island. It is the intent of this article to allow for the harmonious co-existence of communications towers and other land uses. It is also the intent of this article to reduce the overall negative impact of communications towers by:
    - a. Reducing the number of towers needed through a policy of encouraging collocation; and
    - b. Encouraging the following, if collocation is not feasible:
      - 1. The use of stealth tower design, as defined in subsection (m)(3) of this section;
      - 2. The clustering of towers (tower farms);
      - 3. The placement of towers away from roadways;
      - 4. The provision of effective screening; and
      - 5. The location of communications equipment on existing structures.
  - (2) *Collocation exemption.* Proposed communications equipment collocating on existing towers and structures without adding to their height shall require only a zoning permit and shall not be subject to the requirements of this section.
  - (3) *Stealth tower provision.*
    - a. For the purposes of this section, the term "stealth tower" means a communications tower not exceeding 120 feet in height designed to unobtrusively blend into its existing surroundings so as not to have the appearance of a communications tower and is designed to hide, obscure, or conceal the presence of the towers and antennas. Examples



of stealth towers include, but are not limited to, antenna tower alternative structures, architecturally roof-mounted antennas, building-mounted antennas painted to match the existing or proposed trees and landscaping, antenna structures designed to look like light poles or electrical utility poles, artificial trees, clock towers, flagpoles, steeples, water towers or water tanks.

- b. All proposed stealth tower designs must be approved by the Planning Director.
  - c. A complete zoning permit application for a stealth tower that meets all requirements of this article shall be approved.
- (4) *Preapplication meeting.* Prior to submitting a formal application for a zoning permit for a communications tower the applicant is required to attend one or more preapplication meetings. The purpose of the preapplication meeting is to address key issues which will help to expedite the review and permitting process. The Planning Director may conduct a site visit at the preapplication meeting.
- (5) *Zoning permit submittal requirements.* Prior to zoning permit approval, all applications for communications towers shall complete the site plan review process as provided in section 12-162. In addition to any site plan review requirements, the application must contain the following items:
- a. A site plan, drawn to engineer's scale, showing the location of the tower guy anchors (if any), existing or proposed buildings and structures or improvements, including parking, driveways or access roads, fences and protected Grand trees affected by the proposed construction. If there are no Grand trees affected, a surveyor's statement on the site plan must be shown. Adjacent land uses shall also be noted on the site plan, with precise measurements noted between the proposed tower and any residential structures on surrounding properties.
  - b. The site plan must show a vegetated buffer, either existing or installed, that provides an effective screen from public rights-of-way and adjacent property owners and across view corridors. If a buffer is to be installed, its placement on the site will vary in order to provide the most effective screening from public view. Required materials will be based on installation of a 25-foot buffer around the fenced area.
  - c. The height and typical design of the tower, typical materials to be used, color, and lighting shall be shown on elevation drawings. The applicant shall submit documentation justifying the total height of any communications towers, facility and/or antenna and the basis therefor.
  - d. Additionally, color and material samples shall be provided. The tower must be located no closer to a residential structure than a distance equal to 1.5 feet for each foot in height of the proposed tower plus 50 feet as measured from the center of the proposed tower. At a minimum, there must be a 150-foot distance between the proposed tower and a residential structure.
  - e. A six-foot nonclimbable fence must be placed around the tower and any associated building. Guy wires may be fenced separately.
  - f. The proposed tower must be located such that adequate setbacks are provided on all sides to prevent the tower's fall zone from encroaching onto adjoining properties. The fall zone shall be determined by an engineer certified by the State of South Carolina in a letter which includes the engineer's signature and seal.
  - g. For the purposes of collocation review and review of efforts at siting a tower on the same lot near an existing tower, the applicant shall submit satisfactory written evidence such as correspondence, agreements, contracts, etc., that alternative towers, buildings, or other structures are not available or suitable for use within the applicant's tower site search area that are structurally capable of supporting the intended antenna or meeting the applicant's

necessary height criteria, providing a location free of interference from other communication towers, or available at the prevailing market rate (as determined by staff communication with persons doing business within the industry). Additionally, the applicant shall make every effort to build the proposed tower in such a manner as may allow other telecommunication users to collocate.

- h. Proposed towers may not be located within 1,000 feet of the center of an existing tower unless the applicant certifies that the existing tower does not meet the applicant's structural specifications and the applicant's technical design requirements, or that a collocation agreement could not be obtained at a reasonable market rate. In the event of the situation set forth in this subsection, the clustering of new towers on the same parcel near existing towers is permitted.
  - i. The proposed tower shall only be illuminated as required by the Federal Communications Commission or Federal Aviation Administration. Nighttime strobe lighting shall not be incorporated unless required by the Federal Communications Commission or Federal Aviation Administration. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting that shall be as unobtrusive and inoffensive as permissible under State and Federal regulations, and an artist's rendering or other visual representation showing the effect of light emanating from the site on neighboring habitable structures within 1,500 feet of all property lines of the parcel on which the communications towers are located.
  - j. Communications towers shall contain a sign no larger than four square feet to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities. The sign shall contain the names of the owners and operators of the antennas, as well as emergency phone numbers. The sign shall be located so as to be visible from the access point of the site. No other signage, including advertising, shall be permitted on any facilities, antennas, antenna supporting structures or antenna towers, unless required by law.
  - k. A copy of the tower's search ring.
  - l. To ensure the removal of towers which do not meet requirements for continued use or proper maintenance, a statement of financial responsibility shall be submitted for each tower and a performance bond for the amount of anticipated removal costs shall be posted. The bond must be renewed as necessary to ensure that it is maintained at all times during the existence of the tower.
  - m. The applicant shall furnish a visual impact assessment which shall include:
    - 1. A zone visibility map which shall be provided in order to determine locations where the tower may be seen.
    - 2. Pictorial representations of before and after view from key viewpoints both inside and outside the Town including, but not limited to:
      - (i) Major highways and roads;
      - (ii) State and local parks;
      - (iii) Historic districts;
      - (iv) Preserves and historic sites normally open to the public; and
      - (v) Any other location where the site is visible to a large number of visitors, travelers or residents.
    - 3. An assessment of the visual impact of the tower base, guy wires and accessory buildings from abutting and adjacent properties and streets
- (6) *Retention of expert assistance and reimbursement by the applicant.*

- a. The Town may hire any consultant and/or expert necessary to assist the Town in reviewing and evaluating the application, including the construction and modification of the site, once permitted, and any requests for recertification.
  - b. An applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of the consultant and expert evaluation and consultation to the Town in connection with the review of any application including the construction and modification of the site, once permitted. The initial deposit shall be \$8,500.00. The application will not be processed until receipt of this initial deposit. The Town will maintain a separate escrow account for all such funds. The Town's consultants/experts shall invoice the Town for its services in reviewing the application, including the construction and modification of the site, once permitted. If, at any time during the process this escrow account has a balance less than \$2,500.00, the applicant shall immediately, upon notification by the Town, replenish said escrow account so that it has a balance of at least \$5,000.00. Such additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the application. In the event that the amount held in escrow by the Town is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant. The applicant shall not be entitled to receive any interest earnings on unused funds.
  - c. The total amount of the funds needed as set forth in subsection (m)(6)b of this section may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.
- (7) *Surrounding property owner notification.*
- a. In order to better inform the public, in the case of a new communications towers, the applicant shall hold a balloon test as follows:
    - 1. Applicant shall arrange to fly, or raise upon a temporary mast, a minimum of three-foot diameter brightly colored balloon at the maximum height of the proposed new tower.
    - 2. The dates, (including a second date, in case of poor visibility on the initial date) shall be provided to the Planning Director ten days after receipt of the complete application notice.
    - 3. The dates shall be set at minimum 15 days prior to the Planning Director making a final decision on the zoning permit.
    - 4. The balloons shall be flown for ten consecutive hours between 8:00 a.m. and 6:00 p.m.
  - b. Once the application is deemed complete by the Planning Director for a communications tower zoning permit, the Planning Department shall provide parties in interest, personal, posted and newspaper notice in accordance with the requirements of section 12-156. The public notice shall include the dates of the balloon tests as provided by the applicant and the date the Planning Director must make a final decision on the zoning permit.
- (8) *Time limit for staff review.* Upon receipt of an application deemed complete by the Planning Director for a communications tower zoning permit, the Planning Director shall have a maximum of 45 days to act on the application. The 45 days begins from the date the applicant is sent written notice of a complete application from the Planning Director. Failure to act on the application within 45 days will result in the applicant being granted a zoning permit.
- (9) *Zoning permit approval criteria.*
- a. A complete zoning permit application for a stealth tower that meets all requirements of this article shall be approved.

- b. Upon review of a complete application, no zoning permit shall be issued for a communications tower, until the Planning Director determines that the proposed tower complies with the following criteria and standards:
  - 1. The location and height of the proposed tower will not substantially impact the character of property listed in or eligible for the National Register of Historic Places, other significant environmental, cultural or historical site officially designated scenic roads or rivers and that the tower is designed to blend into the environment and minimize visual impact.
  - 2. If a completely new tower is necessary, the applicant must provide written proof of attempts at collocation and siting a tower on the same lot near an existing tower were proven not feasible or practical.
  - 3. The applicant has pursued any available publicly owned sites and privately owned sites occupied by a compatible use, and if not utilized, that these sites are unsuitable for operation of the facility under applicable communications regulations and the applicant's technical design requirements.
  - 4. Staff shall review and approve the color and materials to be used for the proposed tower.
  - 5. If the Planning Director finds a proposed communications tower will have a substantially negative impact on a surrounding area or adjoining property, the use shall fall under the special exception (S) provisions of this article.
- c. In determining whether the use shall fall under the special exception (S) provisions the Planning Director may consider one or more of the following items:
  - 1. The proposed use will be detrimental to adjacent land uses including historical sites;
  - 2. The proposed use will have a negative aesthetic visual impact;
  - 3. The proposed use will have an adverse affect on the environment (not including radio frequency emissions); and
  - 4. The proposed use is contrary to the public health, safety or welfare.
- (10) *Tower abandonment.* A tower that is not used for communication purposes for more than 120 days (with no new application on file for any communication user) is presumed to be out of service and the owner of such tower must notify the staff and remove the tower within 50 days. Towers which are not maintained by the owner according to the Town building code shall be removed by the owner within 60 days. To ensure the removal of towers which do not meet requirements for continued use or proper maintenance, a statement of financial responsibility shall be submitted for each tower and a performance bond for the amount of anticipated removal costs shall be posted. Removal costs shall be charged to the tower owner. The bond must be renewed as necessary to ensure that it is maintained at all times during the existence of the tower.
- (n) *Convention center or visitors bureau.* The convention center or visitors bureau using over a total of 10,000 square feet must comply with the special exception provisions of this article.
- (o) *Repair and maintenance services.*
  - (1) *Consumer repair services.* Consumer repair services, including repair and servicing of appliances, shoes, watches, furniture, jewelry, musical instruments or similar items, may only occur within an enclosed structure. No noise or other emissions from the structure are permitted.

- (2) *Vehicle service.* Limited vehicle service, including automotive oil change or lubrication operations and shall be conducted within an enclosed building. Vehicle storage shall be located in an enclosed building or in an opaquely screened yard.
- (p) *Retail sales and retail or personal services.* Retail sales, display and storage of goods are permitted only within a designated building for that particular use.
- (q) *Construction services.* Contract construction services operations (e.g., contractor's shops, plumbing shops, heating and air conditioning shops, etc.) excluding construction sites for authorized development activities, shall be conducted within an enclosed building. Authorized development activities, for the purpose of this section, include the permitted installation, construction of buildings, structures or utilities at the site on which they will be used. Vehicle, equipment and materials storage at construction services offices shall be located in an enclosed building or in an opaquely screened yard.
- (r) *Warehouse and storage facilities.* Warehouse and storage facilities shall be designed so that all stored items are located within a completely enclosed building, or are completely screened from view from adjacent property lines. Portable storage units shall not be allowed to remain on any property for more than 72 hours within a week.
- (s) *Vehicle storage, including boat or recreational vehicle storage.*
  - (1) Storage of boats, campers and other major recreational equipment, if provided, must be contained within completely enclosed buildings or opaquely screened storage areas on an approved lot. No such equipment shall be used for living, sleeping or housekeeping purposes.
  - (2) Canoes and kayaks may be stored in a semi-enclosed storage rack which is suitably landscaped.
- (t) *Recycling services; recycling collection, dropoff.* Recycling collection and dropoff structures are limited to the following:
  - (1) Maximum dimensions: nine feet in length by six feet in width, and once installed, stands no more than five feet above grade.
  - (2) Structure shall not be located on property zoned for residential use and must be located a minimum of ten feet from any residential property line.
  - (3) Structure shall be surrounded by a landscaped buffer, as determined by the Planning Director pursuant to section 12-127.
- (u) *Transportation; bus passenger stands.* The design and location of bus passenger stands shall only be approved after completing the site plan review procedures contained within section 12-162.

(v) *Destination Clubs and Private Vacations Clubs.* Destination Clubs and Private Vacations Clubs may be permitted in Zones R-2/Commercial, R-3/Commercial, RST-1, RST-2, RST-1/R-3, R-2 (DA), R-3 (DA), and RST-2 (DA) subject to approval of uses prescribed in the Zoning Ordinance and Article 15 – GENERAL OFFENSES, Chapter 8. - Rental Applications and Regulations. Destination Clubs and Private Vacation Clubs are not permitted by the Town's zoning regulations in Residential Zones R-1, R-2, and R-3 unless the Destination Club complies with the following requirements:

- (1) The Destination Club obtains a STR business license;
- (2) The Destination Club pays all required State Sales Tax (8%), State (2%), County (2%) and Local Accommodation (1%) Taxes on gross receipts collected from STR's;



- (3) The Destination Club complies with all other rules and regulations applicable to STR's;
- (4) The Destination Club provides no commercial services on the subject property; and
- (5) The owner of the property obtains a business license; .
- (6) Destination Clubs and Private Vacation Clubs may only be permitted in a Planned Development District when the use is mixed as listed in conditional use reference (v). No Destination Club or Private Vacation Club shall be permitted as a single use within any Planned Development District.

(Code 1993, § 12A-302; Ord. No. 2005-08, § 12A-302, 10-12-2005; Ord. No. 2006-08, § 2.1(12A-302), 11-7-2006; Ord. No. [2016-04](#), § 1, 9-6-2016)

Sec. 12-104. - Accessory uses, buildings/structures.

The purpose and intent of this section is to describe the standards for accessory uses as follows:

- (1) *Definition and applicability.*
  - a. The terms "permitted uses" and "approved special exception uses" include accessory uses and structures that are necessarily associated with, and appropriate, incidental and subordinate to, the allowed principal use. Accessory uses and structures shall be subject to the same regulations that apply to principal uses and structures in each zoning district, unless otherwise expressly stated.
  - b. Permits for accessory uses and structures shall be issued by the Town of Kiawah Island Planning Director.
  - c. In a residential zoning district, an accessory building or structure is a subordinate or incidental structure, attached to or detached from the principal building, which is not used for commercial purposes and which is not rented.
  - d. In nonresidential zoning districts, an accessory building or structure is a subordinate building or structure, the use of which is secondary to and supportive of the principal building.
  - e. Accessory buildings or structures shall not be permitted without a principal building or primary use being in existence.
  - f. Accessory uses include any use that is authorized in the district which is secondary or subordinate to the primary use.
- (2) *Standards for detached accessory dwelling units in residential districts.* An accessory dwelling unit to be occupied by family members or caretakers may be allowed as an accessory use to the principal dwelling unit under the following conditions:
  - a. No detached accessory dwelling unit may be constructed on a lot less than 15,000 square feet;
  - b. The detached accessory dwelling unit may not be sold separately from the sale of the entire property, including the principal dwelling unit, and shall not be leased or sublet;
  - c. The detached accessory dwelling unit shall comply with all required building setbacks for the principal residential use and shall be located in the buildable area of the lot;
  - d. The overall height of a detached accessory dwelling shall be limited to one story, provided that an accessory dwelling may be located over a garage;

- e. When the accessory dwelling is directly attached to the principal dwelling with a roof connection of a minimum of four feet in width, or a wall connection of a minimum of four feet in height, it shall be considered an integral part of the main building; and
  - f. Detached accessory dwellings shall not exceed 1,500 square feet of heated area.
- (3) *Standards for accessory dwelling units in existing structures and nonresidential districts.*
- a. Accessory dwellings for nonresidential structures shall be solely for use by fulltime caretakers of the structure. Such dwellings shall have at least one access through the business that employs the caretaker.
  - b. The overall height of an accessory dwelling shall be limited to one story, provided that a garage apartment or nonresidential caretaker's quarters may be located over a garage.
- (4) *Standards for accessory buildings in residential districts.* Accessory buildings may be allowed in residential zoning districts pursuant to the following conditions:
- a. No accessory building may be constructed on a lot less than 15,000 square feet;
  - b. Detached accessory buildings shall be prohibited from being placed in front of the principal building and shall be placed in the rear yard. Except that a detached accessory use may be constructed in front of the principal residence where the residence backs up to a beach, golf course, lagoon or marsh and is only permitted after approval as a special exception. Accessory buildings will be located within the buildable area of the lot as delineated by the setback requirements;
  - c. Subleasing or renting an accessory building separately from the primary use shall constitute a violation of this article.
- (5) *Standards for accessory structures in residential districts.* Accessory structures may be allowed in residential districts under the following conditions:
- a. Private swimming pools, along with incidental installations such as pumps and filters, may not be located in the front yard. A pool shall be set back a distance of not less than ten feet from all lot lines, except that a pool that is elevated more than four feet above the average natural ground level at the nearest property line shall comply with required building setbacks. All swimming pools shall be gated and fenced. The fence height shall be five feet.
  - b. Private tennis courts shall not be constructed within 20 feet of any adjoining property under other ownership. Tennis court fences or walls shall not exceed 12 feet in height, and no lights for the tennis court shall be permitted.
  - c. Fences shall be limited to landscaped hedgerows of dense plant material and/or wooden, masonry or wrought-iron material, all of which are required to be architecturally integrated with development of the lot or parcel. Fences shall not exceed five feet in height from grade for residential development; provided, however, that this five-foot height restriction shall not apply to the hedgerow portion of any fence or to a fence consisting completely of a hedgerow. This five-foot height restriction shall apply to any gate or gates in any fence of any kind. Solid wood fences shall not be permitted in front yards. Fences (excluding the use of plant material) shall not be permitted within five feet of a side or rear property line. Fences taller than three feet from pavement shall not be located within a sight triangle. Fence heights and setback restrictions shall not apply to the patio wall of patio homes. In measuring the height of a fence to determine whether it complies with the height restrictions, the measurement shall be made to the uppermost portion of the fence, and, if there is anything affixed to or regularly placed or resting thereon, including, without limitation, decorative or ornamental elements or features, all of which shall be considered a part of the fence for the purposes of this section, then the height measurement shall be to the top of any such thing, element or feature.

(Code 1993, § 12A-303; Ord. No. 94-12, § 2(12A-302), 9-26-1994; Ord. No. 2005-08, § 12A-303, 10-12-2005; Ord. No. 2008-04, § 2, 6-3-2008; Ord. No. 2010-02, § 2.2, 3-2-2010)

Sec. 12-105. - Home occupations.

The purpose of this section is to permit home occupations that will not change the character of the residential areas in the Town. The intent of this article is to conserve property values, as well as protect residential neighborhoods from excessive noise, excessive traffic generation, nuisances, health and safety hazards which may result from a home occupation conducted in the residential zones.

(1) All home occupations must comply with the following conditions:

- a. The use of the dwelling unit in connection with an occupation shall be deemed to be clearly incidental and subordinate to its use for residential purposes if the home occupation occupies no more than 25 percent of the heated and cooled square footage of the residence, and no more than 25 percent of the garage or other enclosed areas which may be utilized to store supplies or materials associated with the home occupation.
- b. No employees other than persons residing on the premises shall be engaged in the activities of the home occupation.
- c. There shall be no exterior displays, no exterior storage of equipment, including unlicensed equipment and materials, vehicles with business logos, and no exterior indication of the home occupation which may change the outside appearance of the principal residence or change the residential character of the building.
- d. No on-premises advertising for the home occupation shall be allowed, nor shall advertisement of the address of the property to attract customers, clients or the public to the premises allowed. Window areas must not purposely or intentionally be used as display areas or offer merchandise for sale.
- e. Home occupations shall not require internal or external structural alterations of the principal residence or require the installation of equipment or machinery creating utility demand, noise, fumes or other impacts in excess of equipment or machinery that is customary in a residential area.
- f. The home occupation shall take place entirely within the residential dwelling.
- g. No open lot storage shall be permitted in connection with a home occupation.
- h. No pedestrian or vehicular traffic shall be generated by the home occupation.
- i. No home occupation requiring any equipment or processing which creates noise, vibration, glare, fumes, odors, smoke or dust which disturb neighbors and/or alters the residential character of the premises shall be permitted.
- j. No electric devices may be used in any home occupation which may cause electrical interference or create visual and audible interference in any radio or TV receivers causing fluctuations in the line voltage off the premises.
- k. Delivery trucks shall not operate out of a residential area as a function of a home occupation.
- l. Offices for professional or business activities may be permitted; provided, however, that they adhere to the provisions of this article and that they do not violate any condition prescribed herein.

(2) The following occupations, professions, and business activities and those of a similar nature are some of, but not intended to be a complete list of prohibited home occupations:

- a. Clinics, hospitals;

- b. Funeral homes, mortuaries;
  - c. Animal/veterinary clinics;
  - d. Restaurants;
  - e. Large scale repair services;
  - f. Construction activities;
  - g. Ambulance services;
  - h. Taxi services;
  - i. Beauty salons, barbershops; and
  - j. Vehicle sales or parts sales.
- (3) This section does not permit the establishment of unlisted home occupations unless they comply with all other standards and conditions of this article.

(Code 1993, § 12A-304; Ord. No. 2005-08, § 12A-304, 10-12-2005)

Sec. 12-106. - Temporary uses.

The purpose of this section is to define the type and scope of temporary uses. A temporary zoning permit is required for the following temporary uses:

- (1) Temporary zoning permits are obtained from the Town of Kiawah Island Planning Director.
- (2) Temporary buildings and temporary building material storage areas.
  - a. Temporary buildings and temporary building material storage areas may be used for construction purposes on a site which is not yet occupied.
  - b. Such buildings may be permitted for a specific period of time in accordance with a permit issued by the Planning Director, subject to periodic renewal for cause shown.
  - c. Temporary permits shall be issued only if adequate parking and sanitation facilities are provided to serve the proposed use or activity.
  - d. Upon completion or abandonment of construction or expiration of the permit, such temporary buildings and building material storage areas shall be removed to the satisfaction of the Planning Director.
- (3) Special events.
  - a. A temporary zoning permit shall be issued for public assembly use and for events of public interest. Temporary zoning permits shall be issued for a specific period of time in accordance with a permit issued by the Planning Director, subject to periodic renewal for cause shown. Such permit may be extended by the Planning Director. Examples of special events include: concerts, religious and/or cultural events, sports tournaments or competitions, and parking for special events.
  - b. Temporary buildings associated with special events may be used on the site which the event is to take place.
  - c. Such buildings shall be permitted for a specific period of time in accordance with a permit issued by the Planning Director, subject to periodic renewal for cause shown.
  - d. Temporary permits shall be issued only if adequate parking and sanitation facilities are provided to serve the proposed use or activity.

- e. Upon completion or abandonment of the special event or expiration of the permit, such temporary buildings and associated equipment shall be removed to the satisfaction of the Planning Director.

(Code 1993, § 12A-305; Ord. No. 94-12, § 2(12A-316), 9-26-1994; Ord. No. 2005-08, § 12A-305, 10-12-2005)

Secs. 12-107—12-125. - Reserved.

DRAFT



## CHAPTER 12 – LAND USE PLANNING AND ZONING

## ARTICLE II. – ZONING

## DIVISION 3. – USE REGULATIONS

SEC. 12-107. SHORT-TERM RENTALS.

The intent of these regulations is to promote public health, safety, and welfare and to discourage nuisance and behavioral issues associated with short term rental properties in residential areas in the Town.

(a) Short-term rental (STR) property means an accommodation, rented or leased for less than thirty (30) consecutive days, used in a manner consistent with the residential character of the dwelling, when the property on which the accommodation is located is assessed, for county property tax purposes, as residential property. Exceptions: Rental properties that are available for rent for a period not to exceed 14 calendar days in a calendar year are exempt from the provisions of this Ordinance. Hotels, motels, inns, and bed and breakfasts are not considered STRs. Any property which is leased from its owner on a long-term lease basis (30 days or greater), then made available by the leasee for short term rental or occupancy to a different party shall be considered a short-term rental and both lessor and leasee are subject to this ordinance. Vacation time-sharing plans are not short-term rentals and are not allowed pursuant to Section 14-201 of this Code.

(1) All STR properties must secure a valid business license and adhere to rental requirements pursuant to Article 15 – GENERAL OFFENSES, Chapter 8. – Rental Application and Regulations which regulate all Short-Term Rental properties.

(2) Rental License Caps. Short term rental Caps are established in zoning districts R-1 and R-2. The limitations and requirements of this section apply to all short-term rental properties in the Town's R-1, R-2 and R-3 zoning districts.

a. A STR owner or authorized agent must adhere to the Zoning District Rental Property Caps listed in Table 3B.

Table 3B. Rental Property Zoning Caps

<u>Zoning District</u>	<u>R-1 and R-2*</u>	<u>R-2</u>	<u>R-3</u>
<u>Maximum % of STR properties Allowed</u>	<u>20%</u>	<u>No Limit</u>	<u>No Limit</u>
<u>Rental percentages are a ratio of rental licenses (including PLL's) to developed lots within the R1 zoning district, and the specific R2 zoned areas identified below. Developed lot numbers are defined from the County Assessor's Office as of December 31 of the prior calendar year.</u>			
<u>*R-2 districts include: Indigo Park, Ocean Oaks, Ocean Park, and Silver Moss, Osprey Point (Club Cottage Lane, Marsh Cottage Lane, and Shell Creek Landing).</u>			

CHAPTER 12 – LAND USE PLANNING AND ZONING

ARTICLE IV. - DEFINITIONS

Sec. 12-374. - Definitions.

- (a) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*AASHTO* means the American Association of State Highway and Transportation Officials.

*Accessory* means a use, structure or part of a structure customarily incidental and subordinate to the principal use of a zoning lot or of a structure. An accessory use is located on the same zoning lot as the principal use, except in the cases of off-street parking and temporary construction facilities.

*Accessory dwelling unit* means, in a residential or attached housing district, a subordinate dwelling, attached to or detached from the main building, without separate utilities, which is not used for commercial purposes nor rented but which may contain servants quarters, a washroom, a storage room for domestic storage only, and/or space for one or more automobiles. In any district, a subordinate dwelling, the use of which is incidental to and used only in conjunction with the main building.

*Addition* means a structure added to the original structure at some time after the completion of the original, or an extension, alteration or increase in floor area or height of a building or structure.

*Adjacent* means next to or within 100 feet. Adjacent properties include those properties which abut a property, as well as properties with any portion being located within 100 feet of any boundary of the subject property.

*Administrative and business office* means the use of a building or a portion of a building for the provision of executive, management, or administrative services.

*Administrative decision* means any order, requirement, decision or determination by the Planning Director or designee relating to the administration or enforcement of this chapter.

*Administrative permit* means a permit which may be granted by the Planning Director or other designated administrative official.

*Adult day care facility* means a facility licensed by the South Carolina Department of Health and Environmental Control (DHEC) for adults 18 years of age or older, which offers in a group setting a program of individual and group activities and therapies. The program is directed toward providing community-based day care services for those adults in need of a supportive setting. The program shall provide a minimum of four and a maximum of 14 hours of operation a day. (See SCDHEC Regulation No. 61-75, standards for licensing day care facilities for adults.)

*Agricultural processing.*

- (1) The term "agricultural processing" means the preliminary processing and packaging of agricultural products, such as a packing shed.
- (2) The term "agricultural processing" does not include slaughterhouses, butcheries, tanneries or rendering plants.

*Agricultural sales and service* means an establishment engaged in the retail or wholesale sale from the premises of feed, grain, fertilizers, pesticides and similar goods.

*Agriculture* means the production, keeping or maintenance, for sale, lease, or personal use, of plants and animals useful to man, including, but not limited to:

- (1) Forages and sod crops;
- (2) Dairy animals and dairy products;
- (3) Poultry and poultry products;

- (4) Livestock, including beef cattle, sheep, horses, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all such animals;
- (5) Bees and apiary products;
- (6) Fur animals;
- (7) Trees and forest products;
- (8) Fruits of all kinds, including grapes, nuts and berries;
- (9) Vegetables;
- (10) Nursery, floral, ornamental, and greenhouse products; or
- (11) Lands devoted to a soil conservation or forestry management program.

*Alley* means minor right-of-way used primarily for vehicular access to the rear or side of properties otherwise abutting a street at the front.

*Alteration, structural.*

- (1) The term "structural alteration" means any change in the supporting members of a building or structure, such as bearing walls, columns, beams, or girders, or in the dimensional or configurations of the roof or exterior walls.
- (2) The term "structural alteration" does not include the application of exterior siding to an existing building for the purpose of beautifying and modernizing.

*Ambient air quality standard* means an acceptable concentration of an air pollutant in a community.

*Animal.*

- (1) The term "animal" means any live or dead dog, cat, nonhuman primate, guinea pig, hamster, rabbit or any other warm blooded animal, which is being used, or is intended for use for research, teaching, testing, experimentation, or exhibition purposes, or as a pet. With respect to a dog, the term "animal" means all dogs, including those used for hunting, security or breeding purposes.
- (2) The term "animal" excludes birds, rats of genus *Rattus* and mice of the genus *Mus* bred for use in research, and horses not used for research purposes and other farm animals, such as, but not limited to, livestock or poultry, used or intended for use as food or fiber, or livestock or poultry used or intended for use for improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber.

*Animal aquaculture* means land devoted to the hatching, raising, and breeding of fish, shrimp or other aquatic animals for commercial purposes. The term "animal aquaculture" includes those accessory uses and activities customarily associated with this type of operation, as determined by the Planning Director.

*Animal, exotic,* means any animal not identified in the definition of the term "animal" that is native to a foreign country or of foreign origin or character, but is not native to the United States, or was introduced from abroad. The term "exotic animal" specifically includes animals such as, but not limited to, lions, tigers, leopards, elephants, camels, antelope, anteaters, kangaroos, water buffalo, and species of foreign domestic cattle, such as Ankole, Gayal and Yak.

*Animal production.*

- (1) The term "animal production" means the raising of animals on pasture land or production of animal products on an agricultural or commercial basis. The term "animal production" includes those accessory uses and activities customarily associated with this type of operation, as determined by the Planning Director.
- (2) The term "animal production" does not include concentrated animal feeding operations, slaughter houses or butcheries.

*Apartment* means one or more rooms with a private bath and kitchen facilities comprising an independent, self-contained dwelling unit in a building containing two or more dwelling units.

*Applicant* means an owner of property or a developer submitting an application for an approval pursuant to articles II, III or V of this chapter.

*Application* means the relevant application form and all accompanying documents required by articles II, III or V of this chapter for approval of a use or development plan.

*ARB* means the Kiawah Island Architectural Review Board that is operational pursuant to the declaration of rights, restrictions, affirmative obligations and conditions applicable to all property in Kiawah Island, as amended.

*Arboretum*. See *Botanical gardens*.

*Arborist, certified*, means a person certified by the International Society of Arboriculture.

*Archive*. See *Library*.

*Art gallery* means room or structure in which original works of art or limited editions of original art are bought, sold, loaned, appraised, or exhibited to the public.

*ASTM* means the American Society for Testing Materials.

*Authorized agent* means an owner, the owner's agent, or the owner's designee who is normally available and authorized to respond to any issues arising from a short-term rental unit within two (2) hours and who is authorized to receive written notice on behalf of the owner.

*Aviation* means airports, landing fields, aircraft parking and service facilities, and related facilities for operation, service, fueling, repair, storage, charter, sales, and rental of aircraft, including activities directly associated with the operation and maintenance of airport facilities and the provision of safety and security. The term "aviation" also includes facilities for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express between modes of transportation.

*Bank* means a financial institution that is open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments, and fiduciary activities.

*Banner* means a strip of cloth containing a message or advertisement.

*Bar* or *lounge* means a use engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, where 25 percent or more of the gross receipts are for sale of alcohol. This use includes taverns, cocktail lounges, and any member exclusive bars or lounges.

*Barn*.

(1) The term "barn" means a farm building used for storing farm products or sheltering livestock.

(2) The term "barn" excludes any residential use or nonagricultural use.

*Base course* means the layers of specified or selected material of designated thickness or rate of application, placed upon a subbase or subgrade to comprise a component of the pavement structure, to support the pavement or subsequent layer of construction.

*Base flood elevation (BFE)* means the computed elevation to which floodwater is anticipated to rise during the base flood. Base flood elevations (BFEs) are shown on flood insurance rate maps (FIRMs) and on the flood profiles.

*Beachfront or oceanfront property* means property situated along or having direct access to a beach.

*Bed and breakfast* means a portion of an owner occupied dwelling unit or detached accessory structure offering transient lodging, with or without breakfast, to paying guests on an overnight basis, usually staying less than seven days.

*Berm*.

- (1) The term "berm" means a manmade landscape feature generally consisting of a linear mound of soil.
- (2) The term "berm" does not include temporary soil stockpiles and retaining walls.

*Block* means an area within the town enclosed by streets and occupied by or intended for buildings; or, if said word is used as a term of measurement, it shall mean the distance along a side or street between the nearest two streets which intersect said street on said side.

*Board of Zoning Appeals (BZA)* means the Board of Zoning Appeals for the Town of Kiawah Island, South Carolina is also referred to as the "Board" or "BZA."

*Boat slip* means a docking space alongside a pier, wharf or mooring dolphins in which a waterborne boat may be moored. For purposes of this ordinance and in the absence of an authorized quantity of boat slips by state or federal regulating agencies, a boat slip shall be considered a minimum length of 25 feet for side mooring and 15 feet for stern moorings.

*Boatyard.*

- (1) The term "boatyard" means a land-based operation primarily for the repair and service of boats, including any incidental storage of boats in the process of being repaired.
- (2) The term "boatyard" does not include boat building.

*Botanical garden* means a place, generally open to the public for a fee, where a wide variety of plants are cultivated for scientific, educational, or ornamental purposes.

*Bridge* means a structure, including supports, erected over a depression or an obstruction, and having a track or passageway for carrying traffic or other moving loads.

*Buffer, critical line*, means an area of varying width providing a visual, spatial, and ecological transition zone between the OCRM critical line and land development.

*Buffer, landscape*, means a vegetated area of varying width designed exclusively to provide screening between adjoining properties, rights-of-ways, parking lots and structures.

*Bufferyard* means a strip of land, identified on a concept plan, site plan or development plan, established to protect one type of land use from another land use or to provide screening. Normally, a buffer is landscaped and kept in open space uses.

*Building* means a structure which is permanently affixed to the ground, has a roof supported by columns or walls, and is used for human, animal, or chattel enclosure. When a portion thereof is completely separated from every other portion by a dividing wall or firewall, when applicable, without openings or an unenclosed breezeway, then each such portion shall be deemed to be a separate building.

*Building code* means a recorded description of building and structural specifications prepared and approved in compliance with the building code of this Code of Ordinances.

*Building cover* means the proportion, expressed as a percentage, of the area of a zoning lot covered by all buildings located thereon, including the area covered by all overhanging roofs.

*Building height* means the vertical distance between the base flood elevation (BFE), or ground level if the structure is not in a flood hazard area as defined by the Federal Emergency Management Agency (FEMA) and is measured in feet and stories. Height in stories is the number of habitable floors (stories) exclusive of the area below the first finished floor. Unless otherwise stated in this ordinance, height in feet means:

- (1) The average height level between the eaves and ridge line of a gable, hip or gambrel roof;
- (2) The highest point of a mansard roof; or
- (3) The highest point of the coping of a flat roof.



In measure the height of a building, the following structures shall be excluded: chimneys, cooling towers, elevator bulkheads, tanks, water towers, radio and television towers, ornamental cupolas, domes or spires, and parapet walls not exceeding four feet in height.

*Building line* means any line parallel or approximately parallel to the street line or other property line and beyond which buildings may be erected.

*Building official* means the officer or other designated authority charged with the administration and enforcement of this chapter.

*Building permit* means an official document or certificate issued under the building code for any carpentry, masonry, roofing, or related construction or repair. A building permit is not required for construction under \$1,000.00, unless the construction or repair involves a structural modification or work done by a contractor.

*Building, principal*, means a building in which is conducted the principal use of the zoning lot on which it is situated. In a residential district, any dwelling shall be deemed to be a principal building on which the lot is situated.

*Bulk standards* means regulations that establish the maximum size of buildings and structures on a lot and the buildable area within the building or structure may be located.

*Bus passenger stand* means a small, roofed structure, usually having three walls, located near a street and designed primarily for the protection and convenience of bus passengers.

*Business* means and includes retail, commercial and manufacturing uses and districts as herein defined.

*Business, vocational or trade school* means a use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college, or university.

*Canopy* means a roofed structure constructed of fabric or other material supported by the building or by support extending to the ground directly under the canopy and placed so as to extend outward from the building providing a protective shield for doors, windows and other openings and for protection from sun or weather.

*Canopy tree* means a tree, with a diameter of at least 2½ inches (as measured six inches above grade) at the time of planting, which will grow to a minimum height of 50 feet at maturity.

*CAPS means the maximum number of properties that may be licensed for short-term rental use, calculated as a percentage of total developed dwelling units and developable lots within each zoning district. Total properties are based on the records of the County Assessor's Office as of December 31 of each preceding year.*

*Capital improvements program* means a proposed schedule setting forth all future capital facility projects in order of construction priority, together with cost estimates and the anticipated means of financing such projects which are required to implement the comprehensive plan.

*Caretaker* means an individual or family who resides on premises as an accessory use for the purpose of maintaining, protecting or operating a permitted principal use on the premises.

*Catering service* means an establishment that prepares and provides food and related services to off-premises locations.

*Causeway* means an earthen structure with at least one side adjacent to a depression, wetland, or marsh that supports a road for carrying traffic or other moving loads.

*Cemetery* means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematoriums, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

*Centerline of street* means the line surveyed and monumented as the centerline of the street; or if such centerline has not been surveyed, it shall be the line running midway between the curbs or ditches of such street.

*Charter boat or other recreational watercraft rental* means a land-based operation primarily for the rental or leasing of boats or other recreational watercraft.

*Child day care facility* means a facility or dwelling unit that regularly (more than twice a week, for more than four hours, but less than 24 hours) provides child day care for seven or more children. The term "child day care facility includes child care centers and group day care homes, which are licensed by the South Carolina Department of Social Services (DSS).

*Church* means a place of assembly and worship by a recognized religion including synagogues, temples, churches, instruction rooms and the place of residence for ministers, priests, rabbis, teachers and directors of the premises, but does not include a parochial or similar school.

*Cocktail lounge* means a business establishment which sells alcoholic beverages for consumption on the premises as its primary trade.

*College or university facility* means an educational institution that offers courses of general or specialized study leading to a degree.

*Common open space* means open space, not in individually owned lots or dedicated for public use, but which is designed and intended for the common use or enjoyment of the residents of the development. Common open space shall be substantially free of structures, but may contain such improvements as are approved as a part of the development plan for such district and are appropriate for the residents of the district.

*Communication service* means an establishment primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms, but excludes those classified as major utility facilities.

*Communications tower.*

- (1) The term "communications tower" means a tower of any size that supports communication equipment, transmission or reception, and is utilized by commercial, governmental, or other public or quasi-public users.
- (2) The term "communications tower" does not include communication towers for amateur radio operators licensed by the Federal Communications Commission which are exempt from local zoning restrictions or communications towers under 100 feet in height used solely for educational communications purposes.

*Community character* means the image of a community or area as defined by such factors as its built environment, natural features and open space elements, type of housing, architectural style, infrastructure, and the type and quality of public facilities and services.

*Community recreation* means a recreational facility that is the principal use of a parcel of land and that is for use by residents and guests of the following: a particular residential development, planned development, church, private primary or secondary educational facility, community affiliated non profit organization. The term "community recreation" can include both indoor and outdoor facilities.

*Community recreation center* means a public or quasi public building designed for and used as a social, recreation, and cultural center. As a part of such recreation centers, there may be included craft rooms, music rooms, game rooms, meeting rooms, auditoriums, swimming pools and kitchen facilities. Kitchen facilities and dining areas shall be used for special events only.

*Community residential care facility* means a facility licensed by the South Carolina Department of Health and Environmental Control (DHEC), which offers room and board and provides a degree of personal assistance for a period of time in excess of 24 consecutive hours for ten or more persons, 18 years old or older, unrelated to the operator. The term "community residential care facility" includes any facility (other than a hospital), which offers a beneficial or protected environment specifically for the

mentally ill, drug addicted or alcoholic, or provides or purports to provide any specific procedure or process for the cure or improvement of that disease or condition. A community residential care facility with nine or fewer residents shall be considered a family. (See SCDHEC Regulation No. 61-84, standard for licensing community residential care facility.)

*Comprehensive plan* means the master plan adopted pursuant to the South Carolina Code.

*Concentrated animal feeding operation* means a confined area or facility within which the property is not grazed or cropped annually, and which is used and maintained for the purposes of engaging in the business of the reception and feeding of:

- (1) More than 50 beef or dairy cattle;
- (2) More than 50 horses;
- (3) More than 150 hogs, sheep or goats;
- (4) 1,000 or more birds, such as turkeys, chickens, ducks or geese; or
- (5) More than 1,000 small animals, such as guinea pigs, rabbits and minks.

The term "concentrated animal feeding operation" also includes commercial feed lots.

*Conditional approval* means the official action of the Zoning and Planning Commission conferring certain rights subsequent to preliminary approval but prior to final approval after specific elements of a preliminary plat have been agreed upon by the Commission and the applicant.

*Conditional use permit* means a permit formerly issued by the Planning Department authorizing a particular use in a specified location within a zoning district, upon demonstrating that such use complies with all the conditions and standards specified by article II of this chapter.

*Congregate living* means a residential facility providing 24-hour supervision and assisted living for no more than 15 elderly residents (age 60 or older), not needing regular medical attention.

*Construction permit* means a series of permits that may include building, electrical, plumbing, HVAC (heating, ventilating and air conditioning) or gas permits.

*Construction plan* means complete construction drawings of a facility or improvement, including but not limited to road plans and profiles and drainage plans.

*Construction services* means any of the activities commonly referred to as construction and shall include without limiting thereby, plumbing, heating, roofing, interior remodeling, excavating.

*Consumer convenience service* means an establishment providing services, primarily to individuals, of a frequent or recurrent nature.

*Contextual zoning* means zoning that regulates the height and bulk of new buildings, their setback from the street line, and their width along the street frontage, to conform with the character of the neighborhood.

*Convalescent service.*

- (1) The term "convalescent service" means a use providing bed care and in patient services for persons requiring regular medical attention, but excluding a facility providing surgical or emergency medical services. Typical uses include nursing homes.
- (2) The term "convalescent service" excludes facilities providing care for alcoholism, drug addiction, mental disease or communicable disease.

*Convenience store.*

- (1) The term "convenience store" means establishments primarily engaged in the provision of frequently or recurrently needed goods for household consumption, such as prepackaged food and beverages, newspapers, and limited household supplies, to customers who generally purchase only a few items.

- (2) The term "convenience store" does not include fuel pumps or the selling of fuel for motor vehicles.

*Convention center or visitors bureau* means a formal meeting place where the building or rooms are rented or leased to the members, representatives, or delegates of a particular group. These centers can usually accommodate large groups.

*Council* means the Town Council of the Town of Kiawah Island, South Carolina ("Town Council") is also referred to as the "Council."

*Counseling service* means an establishment providing counseling, guidance, or similar services to persons requiring rehabilitative or vocational assistance. The term "counseling service" includes job training and placement services.

*Country club* means land area and buildings containing golf courses, recreational facilities, a clubhouse, and other customary accessory uses, open only to members and their guests.

*County* means Charleston County, South Carolina.

*County Health Department* means the Charleston County Health Department.

*County Public Works Department* means the Charleston County Department of Public Works.

*Courtyard* means an open unoccupied space, other than a yard, on the same zoning lot with a building, unobstructed from floor or ground level to the sky.

*Crop production.*

- (1) The term "crop production" means the raising and harvesting of tree crops, row crops or field crops on an agricultural or commercial basis. The term "crop production" includes those accessory uses and activities customarily associated with these types of agricultural operations, as determined by the Planning Director.
- (2) The term "crop production" excludes any agricultural uses that are more specifically defined in this section.

*Cul-de-sac* means the turnaround at the end of a dead-end street, but can be used to describe a street with only one means of ingress and egress and having a turnaround at the end.

*Culvert* means any structure not classified as a bridge which provides an opening under any roadway, including pipe culverts and any structure so named in the plans.

*Curb* means a stone, concrete or other improved boundary usually marking the edge of a road or other paved area.

*Data processing services* means establishments primarily involved in the compiling, storage, and maintenance of documents, records, and other types of information in digital form utilizing a mainframe computer.

*Decibel (dB)* means a unit which describes the sound pressure level or intensity of sound. A sound level meter is calibrated in decibels.

*Decision-making body* means the entity that is authorized to finally approve or deny an application or permit as required under this chapter.

*Dedication* means the action of a property owner, developer or subdivider to transfer property, or an interest in property, to the Town or other service provider. The approval of a land development plan or subdivision plat may not be deemed to automatically constitute or effect an acceptance by the Town of a proposed dedication of a street, easement, or other ground shown on the plat. Acceptance of the dedication must be by action of the Town Council by ordinance, independent of the action on the application.

*Density, dwelling unit capacity* means the determination of dwelling unit capacity for group dwellings is calculated as six persons per dwelling unit.

*Density, dwelling units per acre* means the number of dwelling units per acre. The determination of dwelling units per acre is calculated exclusive of water bodies and land below the mean high water level.

*Design professional* means an individual or firm appropriately licensed and registered in the State of South Carolina.

*Destination or Private Vacation Clubs* ("Destination Clubs") means private and/or exclusive membership organizations or commercial businesses primarily engaged in providing short-term overnight accommodations and related services for its club members with non-ownership interest who seek alternative options to standard vacation home rentals. Destination Clubs typically own or lease properties from the owners on a long-term basis, provide those properties in a variety of locations to its members on a short-term basis, and model a membership access structure where its members purchase membership levels granting access to properties and personalized services. Properties offered by Destination Clubs to a member for less than thirty (30) days are considered STRs whether the Destination Club is an owner of record or a lessee.

*Detention* means the temporary holding back of stormwater and releasing it at a controlled rate.

*Developer* means the legal or beneficial owner of a lot or of any land included in a proposed development; or the holder of an option or contract to purchase, or any other person having an enforceable proprietary interest in such land.

*Development* means the planning for or carrying out of a building activity or mining operation, the making of material change in the use or appearance of any structure or property, or the dividing of land into three or more parcels.

*Development agreement* means the current development agreement with Kiawah Resort Associates (KRA) or their successors.

*Development application* means a request for any development approval, including all supplementary information specified in the code or on the application form.

*Diameter breast height (dbh)* means the total diameter, in inches, of a tree trunk or trunks measured at a point 4½ feet above existing grade (at the base of the tree). In measuring dbh, the circumference of the tree shall be measured with a standard diameter tape, and the circumference shall be divided by 3.14.

*Director of Public Works* means the Director of the Charleston County Department of Public Works of the Town of Kiawah Island or his authorized representative.

*District* means a section of the Town for which the regulations governing the area, height or use of the building are uniform.

*Dock* means a structure extending into or upon a waterway, marshland or other natural water feature that provides docking space for ten boats or less.

*Dock, community*, means any docking facility that provides access for more than four families, has effective docking space of no more than 250 linear feet and is not a marina. The term "effective docking space" means adequate length and water depth to dock a 20-foot boat.

*Dock, fixed*, means a structure that can either be a portion of a dock that does not float, but is fixed, e.g., the walkway and pierhead, or it is the fixed pierhead which is the deck area at the end of a walkway.

*Dock, floating*, means a structure that is part of a pier or dock that floats and provides easy access to moored boats.

*Dock, joint use*, means any private dock intended for the use of two to four families.

*Dock, private*, means any facility that provides access for one family, and is not a marina.

*Drainage* means the removal of surface water or groundwater from land by drains, grading or other means.



*Dripline* means an imaginary vertical line extending from the outermost circumference of the branches of a tree to the ground.

*Driveway* means a minimum ten-foot wide vehicular travel way of any surface treatment (pervious or impervious) from the property line to the garage. This includes guest parking and required back-up and turn-around areas required for safe vehicular movement as determined by the Planning Director.

*Dry stack storage for watercraft* means a facility for storing boats out of water. This is principally a land operation, where boats are dry stored or stacked until such time as they are transferred to the water for use.

*Duplex* means a building designed as a single structure, containing two separate living units, each of which is designed to be occupied as a separate permanent residence for one family.

*Dwelling, accessory residential.*

- (1) The term "accessory residential dwelling" means a dwelling unit which is accessory to a primary use and intended for occupancy in support of the primary use, such as caretakers or family members.
- (2) The term "accessory residential dwelling" does not include units that are rented or leased independently of the primary structure.

*Dwelling, multifamily,* means a building or portion thereof containing three or more dwelling units and used for occupancy by three or more households living independently of each other.

*Dwelling, single-family attached,* means two or more dwelling units, constructed with common or abutting walls and each located on a separate lot; also known as townhouses or rowhouses.

*Dwelling, single-family detached,* means one dwelling unit that is not attached to any other dwelling units and is located on an individual lot.

*Dwelling unit* means one or more connecting rooms, designed, occupied or intended for occupancy as a separate living quarter for occupancy by a single household, which have direct access to the outside or to a common hall, with cooking, sleeping and sanitary facilities provided within the dwelling unit. Dwelling units are usually located in dwellings, but may be included as a mixed or accessory use in buildings or in group quarters.

*Earth roads* means those in which the traveled roadway is constructed of compacted earth material.

*Easement* means a privilege or right of use, access or enjoyment granted on, above, under or across a particular tract of land by the landowner.

*Easement, drainage,* means the right of access of stormwater runoff from the adjacent natural drainage basin into the drainageway within the drainage easement.

*Educational nursery.* See *Preschool*.

*Elderly residential care facility* means a facility which provides fulltime residential care, for not more than ten elderly persons who are unrelated to the operator, and require personal assistance (personal assistance is defined by SCDHEC Regulation No. 61-84, standards for licensing, community residential care facility, as amended May 24, 1992).

*Electric substation* means structures and appurtenant facilities used for the distribution of electric energy in voltages less than 115,000 volts.

*Enlargement* means an increase in the size of an existing structure or use, including physical size of the property, building, parking, or other improvements. The term "enlargement" would also include the addition of other structures or uses on the lot.

*Escrow* means a surety bond, certified check, or other instrument readily convertible to cash, provided by the applicant, payable to the Town, and held by a responsible third person until the fulfillment of a specified condition.

*Facade* means the entire building wall, fascia, windows, doors, canopy and on any complete elevation.

*Family* means an individual, or two or more persons related by blood or marriage living together; or a group of not more than six individuals, including live-in servants, not related by blood or marriage but living together as a single housekeeping unit. Residents of community residential care facilities licensed by the South Carolina Department of Health and Environmental Control (DHEC) for nine or fewer individuals shall be considered a family.

*Family day care home* means an occupied residence in which child day care is provided on more than two days a week for periods of less than 24 hours, but more than four hours, for no more than six children, including those children living in the home and children received for day care who are related to the resident caregiver. Family day care homes are licensed by the South Carolina Department of Social Services (DSS). (See S.C. Code 1976, § 20-7-2700, as amended.)

*Family, immediate*, means the property owner's or property owners spouse's, parents, children, grandparents, grandchildren, nieces, nephews, aunts or uncles.

*Farm* means a parcel of land five acres or more that is used for one or more of the following: the tilling of the land, the raising of crops, fruits, and vegetables, and the raising and keeping of animals and plants.

*FEMA* means the Federal Emergency Management Agency, which promulgates flood boundary and floodway maps.

*Fence* or *wall* means an upright barrier or structure, including any gate which is part thereof, comprised of any material, including without limitation, hedgerow or other plant material, which serves to enclose, divide, protect, confine, screen, or mark the boundary of an area or structure or any portion thereof, or, in the case of a wall, also to support.

*Financial guarantee* means surety intended to ensure that all improvements, facilities or work required by this chapter will be completed, restored or maintained in compliance with this chapter.

*Financial service* means an establishment primarily engaged in the provision of financial and banking services.

*Finished grade* means the average elevation of a lot after construction.

*Flag* means a piece of fabric or other flexible material, usually rectangular and of distinctive design which is used as a symbol, such as for a nation, state, locality, or corporation.

*Flag lot*. See *lot, flag*.

*Flexible zoning* means zoning techniques designed to allow flexibility in use and/or density of project design, including, but not necessarily limited to, cluster development, floating zones, performance zoning, planned development, overlay zones and conditional uses.

*Floodplain* means any land with a one percent chance of being inundated by water from any source in any given year, as identified by the Federal Emergency Management Agency (FEMA) or other credible floodplain storage.

*Floor area*.

- (1) The term "floor area" means the sum of the gross horizontal areas of the several floors of the building, measured from the exterior faces of the exterior walls or from the centerlines of walls separating two buildings, computed as follows:
  - a. Floor space devoted to the principal use of the premises, including accessory storage areas located within selling or working space, such as counters, racks, or closets;
  - b. Any basement floor area devoted to the production or processing of goods or to business or professional offices.

- (2) The term "floor area" does not include space devoted primarily to storage purposes (except as otherwise noted herein), off street parking or loading facilities, including ramps, and maneuvering space, or basement floor area, other than area devoted to retailing activities, the production or processing of goods, or business or professional offices.

*Floor area ratio (FAR)* means the ratio of the total usable floor space of all buildings on a parcel divided by the total highland area.

*Florist* means a commercial activity offering for sale cut flowers, ornamental plants, floral arrangements, real or artificial, and related accessories including cards, figurines and indoor ornamental fixtures.

*Food sales* means an establishment primarily engaged in the retail sale of food for home consumption. These establishments may include the sale of beer and wine in unopened containers for off-premises consumption where the sale of products other than beer and wine comprise at least 51 percent of the gross sales of the establishment, and at least 51 percent of the total display or shelf space is devoted to products other than beer and wine.

*Funeral service* means an establishment engaged in undertaking services such as preparing the human or animal dead for burial and arranging and managing funerals.

*Garage apartment* means a single dwelling unit located over a private detached garage and containing square footage no greater than that of the garage.

*Garage, private*, means an accessory structure or space on a lot with a dwelling unit devoted to or designed for the storage of automobiles and small (three-quarter-ton capacity or less) trucks and boats less than 20 feet in length and not used for business purposes or occupancy.

*Garden supplies center.*

- (1) The term "garden supplies center" means a commercial activity offering for sale indoor or outdoor plants, garden fixtures, packaged plant food, pesticides or garden tools, manually or power-operated with associated parts and accessories.
- (2) The term "garden supplies center" does not include farm equipment elsewhere provided for in this chapter.

*Gasoline service station.*

- (1) The term "gasoline service station" means any premises used primarily for the retail sale of fuel for automobiles, light and medium trucks, motorcycles, recreational vehicles, and other consumer motor vehicles. The term "gasoline service stations" may include light maintenance such as engine tuneups, lubrication, minor repairs, and carburetor cleaning, but shall not include heavy vehicle maintenance activities such as engine overhauls, automobile painting, and body fender work. The term "gasoline service station" may also include the sale of motor vehicle accessories or used tires taken in trade on the premises.
- (2) The term "gasoline service station" does not include vehicle, moving truck, or trailer sales or rental.

*General contractor* means an establishment that has the ability to furnish a variety of building materials and provide multiple construction services at a specified price.

*Geographical information system (GIS)* means a computer-based system for generating maps comprised of different informational elements.

*Golf course* means a tract of land laid out for at least nine holes for playing the game of golf and improved with tees, greens, fairways and hazards, and that may include a clubhouse and shelter.

*Governing body.* See *Town Council*.

*Government office* means federal, state, county or city offices, administrative, clerical or public contact services, together with incidental storage and maintenance of necessary vehicles.

*Grade* means, for the purpose of determining building height:

- (1) For buildings adjoining one street only, it is the elevation of the sidewalk directly opposite the center of that wall which adjoins the street; in such case where the average elevation of the finished ground surface adjacent to the exterior walls of the building is lower than the elevation of the sidewalk grade, or where there is no sidewalk grade, or where there are no sidewalks, the grade shall be the average elevation of the ground on the lowest side adjacent to the exterior walls of the building.
- (2) For buildings adjoining more than one street, it is the elevation of the sidewalk directly opposite the center of the wall adjoining the street having the lowest sidewalk elevation.
- (3) For buildings having no wall adjoining the street, it is the average level of the finished ground surface adjacent to the exterior walls of the building.
- (4) All walls which are approximately parallel to and not more than 25 feet from a front lot line shall be considered as adjoining the street. In alleys, the surface of the paving shall be considered to be the sidewalk elevation. Where the elevation of the sidewalk or alley paving has not been established, the Public Works Director shall determine such elevation for the purpose of this chapter.

*Greenhouse* means a partially or fully enclosed structure which is used for the growth of plants.

*Greenhouse production* means ornamental plants or food crops grown for wholesale sale within an enclosed structure or under cover.

*Gross floor area.*

- (1) The term "gross floor area" means the total enclosed area of all floors in a building with a clear height of more than six feet, measured to the outside surface of the exterior walls. The term "gross floor area" includes the dock area of loading areas.
- (2) The term "gross floor area" does not include parking facilities, driveways and airspace above the atria ground floor which are excluded from gross floor area calculations. Enclosed loading areas and off-street maneuvering area also are excluded.

*Gross leasable area (GLA).*

- (1) The term "gross leasable area (GLA)" means the total floor area for which the tenant pays rent and that is designed for the tenant's occupancy and exclusive use.
- (2) The term "gross leasable area (GLA)" does not include public or common areas, such as utility rooms, stairwells and malls.

*Ground cover* means low-growing plant material less than 18 inches in height.

*Ground floor level* means the natural ground or the lowest floor elevation for structures as set forth in the town's floodplain management ordinance, whichever is higher provided, however, that ground floor level for structures shall not exceed 14 feet above natural ground. This definition shall not be construed to prevent an owner from constructing a first floor higher than ground floor level, provided, however, that height is measured from ground floor level or base flood elevation (BFE) when located within a flood zone.

*Group care home, residential,* means a staffed residence, licensed by the South Carolina Department of Social Services (DSS), with a population of fewer than 20 children who are in care apart from their parents, relatives, or guardians on a full-time basis. Group care homes are classified by different levels of care ranging from independent to assisted living.

*Group residential/quarters.*

- (1) The term "group residential/quarters" means the residential use of a site, on a weekly or longer basis, for occupancy by groups of more than six persons not defined as a family, such as fraternity or sorority houses, dormitories, or residence halls.

- (2) The term "group residential/quarters" does not include roominghouses or boardinghouses.

*Hardware store* means a retail store where items such as plumbing, heating, and electrical supplies, sporting goods, and paints are sold.

*Head-in parking spaces* means parking spaces which are directly accessed from street right-of-way that require the user to drive backwards in the right-of-way to enter or exit this space.

*Heavy construction services* means services involved in road, bridge, building, or other infrastructure construction.

*Height* See building height.

*Height of signs* means the vertical distance measured from ground level at the base of the sign structure to the highest point of sign structure.

*Highland* means the area of land above the OCRM critical line.

*Historical site* means a structure or place of outstanding historical and cultural significance and designated as such by the Town of Kiawah Island, the State of South Carolina, or the National Register of Historic Places.

*Hobby shop* means an accessory use housed in a dwelling or in an accessory building in which the residents of the premises engage in recreation activities, none of which shall disturb the neighbors on either side or in the rear thereof, and which no goods may be publicly displayed, offered for sale, or advertised for sale, nor may any sign be used in connection therewith.

*Home health agencies* means a public, nonprofit or proprietary organization licensed by the South Carolina Department of Health and Environmental Control (DHEC) which furnishes or offers to furnish home health services. These services include parttime or intermittent skilled nursing care, as ordered by a physician and provided by or under the supervision of a registered nurse, and at least one other therapeutic service. The majority of home health services are furnished on a visiting basis in a place of temporary or permanent residence used as the individual's home. (See SCDHEC Regulation No. 61-77, standards for licensing home health agencies.)

*Home improvement center* means a facility with over 5,000 square feet of floor area engaged in the retail sale of various basic hardware lines, such as tools, builders' hardware, paint and glass, house wares and household appliances, and garden supplies. Facilities under 5,000 square feet shall be considered a hardware store.

*Home occupation* means an accessory use of a dwelling unit or its accessory structure for gainful employment.

*Homeowners' or property owners' association* means a formally constituted nonprofit association or corporation made up of the property owners and/or residents of a fixed area. The homeowners' or property owners' association may take responsibility for costs and upkeep of common open space or facilities, or enforce certain covenants and restrictions.

*Horticultural production.*

- (1) The term "horticultural production" means land used to grow horticultural and floricultural specialties (such as flowers, shrubs, or trees intended for ornamental or landscaping purposes) for wholesale or retail sale in order to be transplanted to a different location. Retail sales shall not comprise more than 25 percent of gross sales.

- (2) The term "horticultural production" excludes crop and greenhouse production that have been identified elsewhere in this chapter.

*Horticulture and landscaping services* means and includes landscaping, tree trimming, tree removal and other similar services together with associated equipment and machinery directed toward the care of trees, plants or lawns.

*Hospital* means a licensed facility primarily providing in-patient medical, surgical, or psychiatric care for a period exceeding 24 hours. Hospital facilities may also include outpatient services and the following

types of accessory activities: outpatient diagnostic and treatment centers, rehabilitation facilities, offices, laboratories, teaching facilities, meeting areas, cafeterias, maintenance and parking facilities. The term "hospital" includes general hospitals, specialized hospitals, chronic hospitals, psychiatric and substance abuse hospitals or hospices. (See SCDHEC Regulation No. 61-16, standards for licensing hospital and general infirmaries, and Regulation No. 61-78, standards for licensing hospices.)

*Hotel or inn* means a building or arrangement of buildings designed and occupied as a temporary abiding place of individuals who are lodged with or without meals, in which the rooms are usually occupied singularly for hire, and in which there are six or more sleeping rooms.

*Hydroponics* means land used to produce, for wholesale sale, plants grown in nutrient-enriched water, where no soil is used.

*Impact fees* means charges assessed against newly developing property that attempt to recover the cost incurred by a local government in providing the public facilities required to serve the new development.

*Impervious surface* means any material which prevents, impedes or slows infiltration or absorption of stormwater directly into the ground at the rate of absorption of vegetation bearing soils, including buildings, asphalt, concrete, gravel and other surfaces as determined by the Planning Director.

*Improvements* means street pavements, curbs, sanitary and storm sewers, permanent street monuments, sidewalks, drainage, culverts, utilities, water lines and connections, sewer lines and connections, lighting fixtures and other similar capital and public facility projects.

*Incentive zoning* means the granting by the approving authority of additional development capacity in exchange for a public benefit or amenity.

*Indigenous produce.*

- (1) The term "indigenous produce" means fresh fruit, vegetables and agronomic crops (crops such as field corn, soybean, wheat, and oats) grown in, or are characteristic of Charleston County.
- (2) The term "indigenous produce" specifically excludes livestock, animals or seafood.

*Infill development* means the addition of new housing or other buildings on scattered vacant sites in a built-up area.

*Inoperable vehicle* means any motor driven vehicle, regardless of size, which is incapable of being self propelled upon the public streets of the Town or which does not meet the requirements for operation upon the public streets, including a current motor vehicle registration.

*Island-based employee* means employees that are employed full or part time on Kiawah Island, yet reside off the Island.

*Kennel* means a facility that provides boarding for three or more dogs, cats, or other household pets for a fee, and may include grooming, breeding, training, or selling of animals.

*Kiawah Island* means the area within the Town of Kiawah Island, South Carolina, including its surrounding marshes and nearby islands and includes all lands and areas encompassed within the boundaries of the low lands, high lands, marsh lands and waterways. Kiawah Island is bounded by the Atlantic Ocean to the East, the Kiawah River to the South and the Stono River to the North.

*KICA* means the Kiawah Island Community Association, Inc.

*KICA covenants* refers to the Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc. recorded in the RMC Office for Charleston County in Book M 114, Page 407, and amendments thereto.

*Kindergarten* means a school for children of pre-public school age in which constructive endeavors, object lessons and helpful games are prominent features of the curriculum.

*Land development* means changing of land characteristics through redevelopment, construction, subdivision into parcels, condominium complexes, apartment complexes, commercial parks, shopping



centers, industrial parks, mobile home parks, and similar developments for sale, lease or any combination of owner and rental characteristics.

*Land surveyor* means to determine the boundaries, area, or elevations of (land or structures on the earth's surface) by means of measuring angles and distances, using the techniques of geometry and trigonometry.

*Library* means a room or building for exhibiting, or an institution in charge of, a collection of books; artistic, historical, or scientific objects.

*Liquor, beer or wine sales* means an establishment primarily engaged in the retail sale of alcoholic beverages for off-premises consumption. The term "liquor, beer or wine sales" includes all retail stores where the sale of alcoholic beverages comprises 49 percent or more of gross sales.

*Living area* means that portion of the dwelling unit utilized for living purposes within the exterior walls of the structure and does not include porches, breezeways, garages and carports.

*Lodginghouse* means a building other than a hotel, where lodging for five or more persons is provided for compensation.

*Lot* means the development parcel identified in a subdivision plat recorded in the Charleston County, RMC office; also referenced to as zoning lot, parcel, plot or tract.

*Lot area* means the area of the lot shall be the net horizontal area of the lot and shall not include portions of streets, alleys and areas below mean high-water and water bodies.

*Lot, corner*, means either a lot bounded entirely by streets or a lot which adjoins the point of intersection or meeting of two or more streets.

*Lot coverage* means the total percentage of lot area that is impervious to stormwater, including buildings, decks, walls, driveways, front walkways, and other impervious surfaces as defined by this ordinance and determined by the Planning Director.

*Lot depth* means the mean horizontal distance between the front and rear lot lines.

*Lot, double-frontage*, means an interior lot that abuts on two parallel streets or that abuts on two streets that do not intersect at the boundaries of the lot. Lots with access on a street and alley shall not be considered double-frontage lots.

*Lot, flag*, means a legally platted lot that is designed specifically to have a portion that is buildable (the "flag" area) and a portion that [is] unbuildable (the "pole" area) that is used solely for access on the parcel.

*Lot frontage* means the distance for which a zoning lot abuts on a street.

*Lot, interior*, means a lot other than a corner lot.

*Lot line* means a line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

*Lot line, front*, means the lot line separating a lot from a street right-of-way.

*Lot line, interior*, means the lot line other than a front lot line.

*Lot line, rear*, means the lot line opposite and most distant from the front lot line.

*Lot line, side*, means any lot line other than a front or rear lot line.

*Lot, through*, means an interior lot which abuts on two or more streets.

*Lot width* means the width of:

- (1) A corner lot, if there are:
  - a. Two street yard lines, the shorter of such lines;
  - b. More than two street yard lines, the average length of the two shortest of such lines.

- (2) An interior lot, the length of the front yard line.
- (3) A through lot, a width determined on the basis of a reasonable division of the lot into segments fronting on several streets.

*Lot, zoning,* means any lot that falls within the jurisdiction of this chapter.

*Lots of record, approved,* means platted parcels of land created and recorded with the Register of Mesne Conveyance of Charleston County since January 1, 1955, in conformance with article III of this chapter, subdivision regulations and bearing the Planning Commission or Council stamp of approval, or identical parcels created and recorded by plat or meets and bounds prior to January 1, 1955.

*Main utility lines* means those facilities including piping, conduits, outlets, and other appurtenances necessary for the proper functioning of essential services to a development including water, electricity, gas, sanitary sewer, storm sewer, cable, communications, etc.

*Maintenance agreement* means an agreement which may be required and accepted by the Town or another designated governmental agency to ensure that necessary improvements are maintained and will function as required for a specific period of time.

*Maintenance guarantee* means any security which may be required and accepted by the Town or another designated governmental agency to ensure that necessary improvements are maintained and will function as required for a specific period of time.

*Major recreational equipment* means and includes, but is not limited to, boat, boat trailer, recreational vehicle, and containers for transporting such equipment, whether occupied thereby or not.

*Manufactured housing unit.*

- (1) The term "manufactured housing unit" means any residential dwelling unit constructed to standards and codes set forth by the United States Department of Housing and Urban Development, including the Federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 USC 5401).
- (2) The term "manufactured housing unit" does not include recreational vehicles, travel trailers or motorized homes licensed for travel on highways, nor manufactured housing units designed and built to meet applicable requirements of South Carolina Modular Buildings Construction Act.

*Manufacturing and production* means an establishment engaged in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, manmade, raw, secondary or partially completed materials may be used. Products may be finished or semifinished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, this is a subordinate part of sales. Relatively few customers come to the site.

*Marina* means any of the following, as defined by OCRM:

- (1) Locked harbor facility;
- (2) Any facility which provides fueling, pump-out, maintenance or repair services (regardless of length);
- (3) Any facility which has permanent docking space of 250 linear feet or greater;
- (4) Any water area with a structure which is used for docking or otherwise mooring vessels and constructed to provide temporary or permanent docking space for more than ten boats; or
- (5) A dry stack facility.

*Maximum extent feasible* means the point at which all possible measures have been undertaken by the applicant, at which point further measures would involve physical or economic hardships that would render a development project unfeasible or would be unreasonable in the judgment of a review or decision-making body.

*Mean sea level* means elevation 0.0 as determined by NGVD 29 datum.

*Medical clinic, outpatient services.*

- (1) The term "outpatient services medical clinic" means an office or clinic for the private practice of health care professionals licensed by the State of South Carolina. The majority of patient encounters in the office or clinic involve examination, diagnosis, treatment or surgical procedures on an outpatient basis not extending beyond a 24-hour period.
- (2) The term "outpatient services medical clinic" excludes any facilities that have been more specifically defined in this chapter.

*Medical office* means an office used exclusively by a physician, dentist, and/or similar personnel for the treatment and examination of patients solely on an outpatient basis, provided that no overnight patients shall be kept on the premises.

*Medical services* means any services provided by a licensed medical practitioner.

*MHW* means the mean high-water line.

*Mini-warehouse* means a structure containing separate, individual and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

*Mixed-use structure* means a structure containing both residential and nonresidential uses.

*MLW* means the mean low-water line.

*Modular building unit* means a building including the necessary electrical, plumbing, heating, ventilating and other service systems, manufactured off site and transported to the point of use for installation or erection, with or without other specified components, as a finished building and not designed for ready removal to another site. A modular building unit must meet the applicable requirements of the South Carolina Modular Buildings Construction Act. The term "modular building unit" is not to be limited to residential dwellings.

*Motion picture/live theater* means a structure that contains audience seating, one or more screens/auditoriums, and a lobby and refreshment stand.

*Motor vehicle* means every vehicle that is self-propelled that can be licensed and registered to be driven on public streets, roads or rights-of-way, except mopeds, and every vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

*MSL* means the mean sea level.

*Mulching operation* means an operation that produces mulch. Mulch consists of organic substances placed on the earth as a protective covering around plants to retard weed growth and prevent moisture evaporation and freezing of roots.

*Multifamily.* See *Dwelling, multifamily.*

*Museum* means a registered nonprofit organization displaying, preserving, and/or exhibiting objects of community and cultural interest in one or more of the arts and sciences.

*Natural ground* means the average elevation of a lot or development parcel prior to development activity.

*Nature exhibition.*

- (1) The term "nature exhibition" means a public display of materials or living things of the outdoors, including the re-creation of native natural wildlife habitats.
- (2) The term "nature exhibition" does not include facilities, such as zoos, where the primary purpose is the display of live animals.

*News syndicate services* means a publication, printed on newsprint, intended for general circulation, and published regularly at short intervals, containing information and editorials on current events and news of general interest.

*NGVD* means the National Geodetic Vertical Datum.

*Noncommercial copy* means material written for informational purposes only. This material is nonpromotional and does not advertise a business or service.

*Nonconforming lot* means a tract of land, designated on a duly recorded subdivision plat, or by duly recorded deed, or by other lawful means, that complied with the lot area, lot width and lot depth standards of the zoning district in which it was located at the time of its creation, but which does not comply with the minimum lot area, lot width or lot depth requirements of the zoning district in which it is now located.

*Nonconforming sign* means a sign that was legally established but which no longer complies with the sign regulations of this chapter.

*Nonconforming structure* means a structure or portion thereof which was lawfully erected or altered, but which does not comply with the regulations applicable to new structures in the zoning district in which it is located.

*Nonconforming use* means a use which was lawfully established and maintained, but which does not comply with the use regulations applicable to new uses in the zoning district in which it is located; the use of any land, building, or structure which does not conform with currently applicable use regulations, but which complied with use regulations in effect at the time the use was established.

*Office* means a building used primarily for conducting the affairs of a business, profession, service, industry, or government or like activity, and may include ancillary services for office workers, such as a restaurant, coffee shop, newspaper or candy stand, and child care facilities.

*Office of Coastal Resource Management (OCRM) critical line area* means the line defined by the South Carolina Department of Health and Environmental Control's Office of Ocean and Coastal Resource Management at the date of application and determines their jurisdiction.

*Office/warehouse complex* means a structure or group of structures offering compartments of varying size for rental to different tenants for the storage of commercial goods or wares, conducting of certain retail trade activities, or provision of those personal or business services permitted by zoning.

*Open space* means an area that is not divided into building lots, streets, driveways, parking lots or rights-of-way and is intended to provide light and air, and is designed for either environmental resource protection, wildlife habitats, scenic views or recreational purposes as allowed.

*Open storage.*

- (1) The term "open storage" means the location of bulk items, assemblies or sub-assemblies in areas exposed to weather, in whole or in part, for the end use of further manufacturing process, sale or transportation. The term "open storage" shall include, but not be limited to, open display of transportation vehicles, marine craft, aircraft, mobile homes, modules, recreation vehicles, junkyards or "piggy-back" containers.
- (2) The term "open storage" does not include uses that are totally enclosed.

*Outdoor living space.*

- (1) The term "outdoor living space" means uncovered, horizontal open space on a zoning lot, which space:
  - a. Is paved, landscaped, or otherwise improved to make it suitable for passive or active outdoor recreational use and in the case of roofs and balconies is so arranged as to be safe for use by children;
  - b. Is readily accessible to the residents of the building for which it is required; and
  - c. May include land, balcony and roof areas.
- (2) The term "outdoor living space" does not include loading or parking areas, driveways or refuse storage area and is so arranged as to prevent entry by motor vehicles.

*Outside storage* means the keeping, in an unroofed area, of any goods, junk, material, merchandise or vehicles in the same place for more than 24 hours.

*Owner* means an individual, firm, association, syndicate, partnership or corporation having a sufficient proprietary interest in land to seek development of the land.

*Owner, Short Term Rental*, means the record owner of the property or any person or entity that leases from the record owner of the property, who engages in the business of furnishing for lease or for rent, either directly or through a third-party entity, a short-term rental unit and who must be licensed both as a business and under Municipal Code Chapter 8 Rental Applications and Regulations.

*Parcel* means a contiguous lot or tract of land owned and recorded as the property of the same persons, or controlled by a single entity.

*Park* means an open space with natural vegetation and landscaping; may include recreational facilities.

*Parking garage* means a building where residents, tourists, customers or employees park their motor vehicles on a temporary or daily basis with a service charge or fee being paid to the owner or operator.

*Parking lot* means an open area providing off-street parking for the motor vehicles of residents, tourists, customers, or employees on a temporary, daily, or overnight basis.

*Parks and recreation* means parks, playgrounds, swimming pools, recreation facilities, and open spaces available to the general public, either without a fee or under the management or control of a public agency.

*Parole or probation office* means an office for those who supervise parolees or persons placed on probation by a court in criminal proceedings.

*Patio home* means a detached one-family dwelling on a separate lot with open space setbacks on three sides and with a court.

*Paved streets* means those in which the traveled roadway is constructed of a layer or layers of materials with the surface usually being constructed of Portland cement concrete or asphaltic concrete.

*Pavement* means the uppermost layer of material placed on the street usually as the wearing or riding surface. This term is used interchangeably with surface course or surfacing and will usually imply Portland cement concrete or asphalt concrete.

*Pending ordinance doctrine* means the Zoning Administrator has the authority to refuse a permit for a use which is repugnant to the terms of a proposed zoning ordinance or amendment pending at the time of application for the permit. An ordinance is legally pending when the governing body has resolved to consider a particular scheme of rezoning and has advertised to the public its intention to hold public hearings on the rezoning.

*Pennants, streamers and other moving devices* means pennants, ribbons, streamers, spinners, light bulbs, or other similar moving devices when part of a sign, or when used to draw attention to a business or its signs.

*Person* means an individual, proprietorship, partnership, corporation, association or other legal entity.

*Personal improvement education.*

- (1) The term "personal improvement education" means an establishment primarily engaged in the provision of information or instruction relating to a particular subject or hobby.
- (2) The term "personal improvement education" excludes any educational services more specifically defined in this chapter.

*Personal improvement service.*

- (1) The term "personal improvement service" means an establishment primarily engaged in the provision of informational, instructional, personal improvements or similar services.

- (2) The term "personal improvement service" excludes any services that have been more specifically defined in this chapter.

*Personal services establishment* means an establishment that provides nonmedically related services, including, but not limited to, beauty shops and barbershops; clothing rental; dry cleaning pickup stores; shoe repair shops; tanning salons. These uses may also include accessory retail sales of products related to the services provided.

*Pervious surface* means an unimproved portion of land maintained in its natural condition or an improved portion of land covered by a material that permits infiltration or percolation of stormwater into the ground as determined by the Planning Director.

*Pet grooming salons* means an establishment primarily engaged in the grooming of household pets.

*Pet, household*, means domestic animals typically kept for company or enjoyment within the home. The term "household pets" includes, but not be limited to: domestic cats; domestic dogs; domestic ferrets; gerbils; guinea pigs; hamsters; domestic laboratory mice; domestic rabbits; goldfish, canaries and parrots.

*Pet store* means an establishment primarily engaged in the retail sale of household pets.

*Pier* means a structure that accesses water for any number of uses that consists of walkway, pierhead and floating dock.

*Planned development district* means a zoning district established under the provisions of section 12-73.

*Planning Commission* means the Planning Commission of the Town of Kiawah island as created by the Town Council and given the responsibilities set forth in the South Carolina Local Government Comprehensive Planning Enabling Act of 1994 (the "Act"). See the Act, sections 6-29-340 through 6-29-380; may also be referred to as "Commission," "Local Planning Commission" or "Planning and Zoning Commission."

*Planning Director* means the Director of the Charleston County Planning Department, or his authorized representative, who shall also serve as the zoning enforcement officer.

*Plants* means and includes seed, seedlings, nursery stocks, roots, tubers, bulbs, cuttings and other plant parts used in the propagation of field crops, vegetables, fruits, flowers or other plants.

*Plat* means a recorded graphic description of property prepared and approved in compliance with article III of this chapter, as amended.

*Plat, conditional*, means a plat proposed in accordance with the provisions of article III of this chapter, which provides detailed land development specifications and is submitted subsequent to an approved preliminary plat and construction plan.

*Plat, final*, means a plat proposed in accordance with the provisions of article III of this chapter, which is in the proper format for filing and recordation. Approval is granted upon completion or installation of all improvements, or the posting of a performance guarantee assuring completion or installation.

*Plat, final plat approval* means the official action of the Commission approving or conditionally approving a preliminary, conditional or final plat.

*Plat, preliminary*, means a plat prepared in accordance with the provisions of article III of this chapter, which is submitted for the purpose of showing the design of a proposed subdivision and the existing conditions in and around it.

*Postal Service, United States*, means the postal services, including post offices, bulk mail processing, or sorting centers operated by the United States Postal Service.

*Preliminary approval* means the official action of the Zoning and Planning Commission conferring certain rights prior to final approval after specific elements of a preliminary plat have been agreed upon by the Commission and the applicant.



*Preschool* means a school, with an accredited training program and staffed with certified teachers, for children who are not old enough to attend kindergarten.

*Preserved* means to remain relatively unchanged. In relation to open space, the term "preserved" means land placed in a conservation easement with a permanent deed restriction that prohibits further development.

*Principal use* means the primary or predominant use to which a property is or may be devoted and to which all other uses on the premises are accessory.

*Private club* means a privately owned, by-invitation only association of two or more members who may have the use of land and facilities owned or leased by the club and made available to members, their guests and others, as the club owners may allow from time to time; membership may be for social, civic, recreational and/or other lawful purposes with such membership conditioned upon the receipt of dues, fees or other charges as are levied by the club owners.

*Private postal or mailing services* means a commercial business which conducts the retail sale of stationery products, provides packaging and mail services (both U.S. Postal Service and private service), and provides mailboxes for lease.

*Professional office.*

- (1) The term "professional office" means a use providing professional or consulting services in the fields of law, architecture, design, engineering, accounting, and similar professions.
- (2) The term "professional office" does not include "medical office or clinic" or "parole or probation office."

*Protected tree* means any tree with a diameter breast height of 24 inches or greater, excluding pine trees, and any tree with a diameter breast height of six inches or greater within required buffers or any other required landscape areas.

*Provisional Lot License (PLL)* means a license that provides the owner of a vacant developable lot (hereafter referred to as "lot") the right to obtain a STR License. The PLL is valid for 3 years from issuance and guarantees the owner the right to obtain a Rental Business License upon issuance of a Certificate of Occupancy (CO). In the event construction is in the process, but a CO has not been issued, the PLL holder may appeal the expiration of the PLL to the Town Treasurer for an extension of up to 120 days.

*Public or community health care center.*

- (1) The term "public or community health care center" means a publicly owned facility or not-for-profit organization providing health services for ambulatory patients. These centers can include related facilities, such as laboratories, clinics, and administrative offices typically operated in connection with such care centers.
- (2) The term "public or community health care center" does not include facilities to treat mental health or substance abuse.

*Public project* means any project by or for a public agency using real property, as owner or tenant that falls within the jurisdiction of the Town of Kiawah Island. These public agencies include:

- (1) Agencies and departments of the State of South Carolina;
- (2) Counties, county agencies and departments; and
- (3) Municipalities, municipal agencies, and departments.

*Public Works Director* means the Director of the Department of Public Works of the County of Charleston or an authorized representative.

*Publicly designated area* means an area set aside for public use, by any federal, state, or local government.

*Rack* means a storage slip for a boat in a dry stack storage facility.

*Radio and television broadcasting studio.*

- (1) The term "radio and television broadcasting studio" means an establishment containing one or more broadcasting studios for over-the-air, cable or satellite delivery of radio or television programs, or studios for the audio or video recording or filming of musical performances, radio or television programs or motion pictures.
- (2) The term "radio and television broadcasting studio" does not include a transmission tower.

*Recreation and entertainment, indoor.*

- (1) The term "indoor recreation and entertainment" means participatory and spectator-oriented recreation and entertainment uses conducted within an enclosed building.
- (2) The term "indoor recreation and entertainment" excludes any sexually oriented businesses.

*Recreation and entertainment, outdoor.*

- (1) The term "outdoor recreation and entertainment" means participatory and spectator-oriented recreation and entertainment uses conducted in open, partially enclosed, or screened facilities.
- (2) The term "outdoor recreation and entertainment" excludes any sexually oriented businesses.

*Recreation center* means a building designed for and used as a social, recreation, and cultural center. As a part of such recreation centers there may be included craft rooms, music rooms, game rooms, meeting rooms, auditoriums, swimming pools and kitchen facilities.

*Recreation or vacation camp.*

- (1) The term "recreation or vacation camp" means an area or tract of land primarily used for recreational purposes that retains an open air or natural character. Accommodations for temporary occupancy, such as cabins and tents, may be located or placed in these areas.
- (2) The term "recreation or vacation camp" does not include areas for recreational vehicles or motorized campers.

*Recreational equipment* means equipment associated with indoor and/or outdoor participatory and spectator-oriented recreation and entertainment uses.

*Recreational vehicle.*

- (1) The term "recreational vehicle" means a highway vehicular, portable structure designed as a temporary dwelling for travel, recreational, and vacation uses. The term includes camping trailer, motor home, travel trailer, and truck campers.
- (2) The term "recreational vehicle" does not include manufactured housing units.

*Recreational vehicle park.*

- (1) The term "recreational vehicle park" means any lot of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy as temporary living quarters for purposes of recreation or vacation.
- (2) The term "recreational vehicle park" does not include any premises on which unoccupied recreational vehicles, whether new or used, are parked for the purposes of inspection, sale, storage, or repair.

*Recycling center* means an establishment engaged in the processing, collection and transfer of recyclable materials. Typical recyclable materials include: glass, paper, plastic, cans, motor oil or other source material that is separated and of nondecayable materials.

*Recycling collection dropoff facility* means a facility used for the collection and transfer, but not the actual processing, of any of the following recyclable materials: glass, paper, plastic, cans, or other source

separated, nondecayable materials. Recyclable materials at a recycling collection facility shall not include motor oil, chemicals, household appliances, tires, automobiles, automobile parts or decayable materials.

*Rehabilitation facility* means a facility operated for the primary purpose of assisting in the rehabilitation of disabled individuals through an integrated program of medical, psychological, social or vocational evaluation and services under competent professional supervision.

*Religious assembly* means a church, synagogue, temple, monastery, convent, retreat center or any permanent or temporary building providing regular, organized religious worship of any denomination and religious education incidental thereto, but excluding private primary or secondary educational facilities day care facilities. A property tax exemption obtained pursuant to State Law shall constitute prima facie evidence of religious assembly use.

*Relocated tree* means a protected tree that has been relocated in accordance with the requirements of this chapter.

*Remodel.*

(1) The term "remodel" means the internal or external alteration or change, in whole or in part, of a structure or thing that changes its characteristic appearance or the fundamental purpose of its existing design or arrangement and the uses contemplated.

(2) The term "remodel" does not include the terms "enlargement" and "extension."

*Repair service, commercial*, means an establishment engaged in the repair or servicing of industrial, business or consumer machinery, equipment, tools, scientific or professional instruments, or similar products or byproducts. Firms that service consumer goods do so mainly by providing centralized services for separate retail outlets.

*Repair service, consumer*, means an establishment primarily engaged in the provision of repair services to individuals and households rather than firms, but excluding vehicle and commercial repair services.

*Required tree* means the term used to refer, either collectively or separately, to all trees required to be retained or replaced.

*Residential building or use* means a residential building is a building containing only residential uses and uses accessory thereto.

*Residential, short-term*, means any real property rented except dwelling units rented less than two weeks per annum.

*Residential treatment facility for children and adolescents* means a facility licensed by the South Carolina Department of Health and Environmental Control (DHEC) operated for the assessment, diagnosis, treatment, and care of two or more children and/or adolescents in need of mental health treatment. The services include a special education program, recreational facilities, and residential treatment. This definition excludes facilities that are appropriately licensed by the State Department of Social Services. (See SCDHEC Regulation No. 61-103, standards for licensing residential treatment facilities for children and adolescents.)

*Responsible entity* means either:

- (1) The unit of local government responsible under State Law for the maintenance of the roadway;  
or
- (2) In the case of private roadways (nonpublicly maintained), the owner of the property on which the roadway is located, or a homeowners association, if existing, previously created to maintain the roadway.

*Restaurant, fast-food*, means an establishment that offers quick food service, which is accomplished through a limited menu of items already prepared and held for service, or prepared, fried or griddled quickly, or heated in a device such as a microwave oven. A fast-food restaurant generally has one or more of the following characteristics:

- (1) It serves ready to eat foods, frozen deserts, or beverages in edible or paper, plastic or disposable containers;
- (2) It serves foods that customers carry to the restaurant's seating facilities, to motor vehicles, or off premises;
- (3) It serves foods through a pass-through window, (which includes any and all drive in restaurants); or
- (4) Alcoholic beverages shall not comprise more than 25 percent of gross receipts.

*Restaurant, general.*

- (1) The term "general restaurant" means an establishment engaged in the preparation and retail sale of food and beverages for on premises consumption, where the sales of alcoholic beverages does not comprise more than 25 percent of gross receipts.
- (2) The term "general restaurant" does not include fast-food restaurants.

*Retail sales and services, general.*

- (1) The term "general retail sales and services" means an establishment primarily engaged in the sale of new or used products to the general public.
- (2) The term "general retail sales and services" excludes those establishments more specifically defined in this chapter.

*Retirement housing* means the use of a site for one or more dwelling units designed for independent living and marketed specifically for the elderly, persons with physical disabilities or both.

*Review body* means the entity that is authorized to recommend approval or denial of an application or permit required under this chapter.

*Right-of-way* means land that has been, or is being, dedicated for the construction and maintenance of a street. Right-of-way may also be used to identify an area dedicated for use as part of a drainage system or utility corridor.

*Road code* means a recorded description of right-of-way specifications prepared and approved in compliance with article V of this chapter, the road code.

*Roadside stand* means a small open air structure for the retail sale of sweetgrass baskets or indigenous produce grown or produced on the farm where the roadside stand is located.

*Roadway* means the entire area between the outside limits of construction, including appertaining structures, all slopes, ramps intersections, drive, and side ditches, channels waterways, etc., necessary for proper drainage. This term shall in general be considered synonymous with "street" or "road."

*Rock road* means those in which the traveled roadway is constructed of compacted rock material creating a rock driving surface.

*Roominghouse* means a dwelling other than a hotel where for compensation and by pre-arrangement for definite periods, lodging is provided for three or more, but not exceeding 20, persons on a weekly or monthly basis.

*Rowhouse.* See *Townhouse*.

*Safety service* means facilities for the conduct of public safety and emergency services.

*School, primary,* means a public, private or parochial school offering instruction at the elementary school level in the branches of learning and study required to be taught in the public schools of South Carolina.

*School, secondary,* means a public, private or parochial school offering instruction at the middle (junior) and senior high school levels in the branches of learning and study required to be taught in the public schools of South Carolina.

*Scrap and salvage service or junkyard* means an establishment primarily engaged in the storage, retail or wholesale sale, assembling, dismantling, sorting, distributing, or other processing of scrap, used equipment, mechanical components, or waste materials.

*Screening* means various combinations of walls, fences, earthen berms, trees, shrubbery, and landscape materials which comprise a screening plan approved by the Planning Director or designee to fulfill the requirements and serve the purposes of this chapter.

*Screening, semi-opaque*, means a combination of screening elements to partially obscure horizontal views between abutting or adjacent properties.

*Self-service storage or mini-warehousing.*

- (1) The term "self-service storage" or "mini-warehousing" means storage services primarily for personal effects and household goods within enclosed storage areas having individual access.
- (2) The term "self-service storage" or "mini-warehousing" excludes uses such as workshops, hobby shops, manufacturing or commercial activity.

*Servants' quarters* means an accessory building or portion of a main building located on the same lot as the main building and used as living quarters for servants employed on the premises and not rented or otherwise used as a separate domicile.

*Service station, gasoline*, means a facility limited to retail sales to the public of gasoline, motor oil, lubricants, motor fuels, travel aides, and minor automobile accessories.

*Setback* means a required minimum distance from a lot line or street right-of-way that establishes an area within which a structure shall not be erected.

*Setback, front*, means the setback measured from all street rights-of-way.

*Setback, interior*, means the setback measured from any interior lot line.

*Setback line* means a line measured from and parallel to a lot line.

*Setback, rear*, means the setback measured from the rear lot line.

*Setback, side*, means any setback other than a rear or front setback.

*Sewer* means any pipe or conduit used to collect and convey sewage or stormwater runoff from the generating source to treatment plants or receiving streams.

*Sewer, lateral*, means pipes conducting sewage from individual buildings to larger pipes called truck or interceptor sewers that are generally located in street rights-of-way.

*Sewer main* means any system of continuous piping, the principal artery of the water or sewer system to which branches or lines may be connected.

*Shopping center* means a group or cluster of stores or buildings, divided for separate commercial or service facilities, organized in a balanced arrangement for retail trade, with provisions for parking.

*Short-term rental (STR) property means an accommodation, rented or leased for less than thirty (30) consecutive days, used in a manner consistent with the residential character of the dwelling, when the property on which the accommodation is located is assessed, for county property tax purposes, as residential property. Exceptions: Rental properties that are available for rent for a period not to exceed 14 calendar days in a calendar year are exempt from the provisions of this Ordinance. Hotels, motels, inns, and bed and breakfasts are not considered STRs. Any property which is leased from its owner on a long-term lease basis (30 days or greater), then made available by the leasee for short term rental or occupancy to a different party shall be considered a short-term rental and both lessor and leasee are subject to this ordinance. Vacation time-sharing plans are not short-term rentals and are not allowed pursuant to Section 14-201 of the Municipal Code.*

*Shrub* means a self-supporting perennial plant of low stature characterized by multiple stems and branches running continuous from the base.

*Sight triangle* means a triangular-shaped portion of land established at street intersections in which nothing is permitted which limits or obstructs the sight distance of motorists entering or leaving the intersection. The sides of the triangle measure 25 feet from the intersection of the projected edge of pavement lines.

*Sign* means any device or representation for visual communication that is used to announce, direct attention, or advertise, and which is located on or attached to the premises, real property, structures on real property, or a vehicle, and which is visible from a public street or way.

*Sign, abandoned*, means a sign advertising a person, business, service, event or other activity that is no longer available or a sign containing inaccurate or outdated information.

*Sign, animated*, means any sign so designed as to facilitate or permit the rotation, oscillation, or other movement of the sign or of any of its visible parts.

*Sign, area of*, means the entire area within a continuous perimeter, enclosing the extreme limits of sign display, including any frame or border. Curved, spherical, or any other shaped sign face shall be computed on the basis of actual surface area. The area of signs composed of individual letters, numerals, or other devices shall be the sum of the area of the smallest rectangle or other geometric figure encompassing each of said letters or devices. Any area devoted to required house numbers shall not be included in the calculation of maximum sign area. The calculation for a double-faced sign shall be the area of one face only. Double-faced signs shall be constructed so that both faces are either parallel or have an interior angle of less than 90 degrees, and the two faces shall not be more than 12 inches apart.

*Sign, flashing.*

- (1) The term "flashing sign" means any lighted or electrical sign that emits light in sudden transitory bursts. For purposes of this chapter, strobe lights in window fronts visible from public rights-of-way are included in this definition.
- (2) The term "flashing sign" does not include on/off time and temperature signs and message boards, for the purpose of this chapter.

*Sign, freestanding*, means a sign supported by a sign structure secured in the ground and which is wholly independent of any building, other than the sign structure, for support. A sign on a fence shall be considered a freestanding sign.

*Sign, height of*, means the vertical distance measured from ground level at the base of the sign structure to the highest point of sign structure.

*Sign, illuminated*, means a sign designed to give forth artificial light or to reflect artificial light from a source incorporated in or associated with such sign.

*Sign imitating traffic devices (signals)* means signs of such size, location, movement, content, coloring or of a manner of illumination that could be confused with or construed to be traffic control devices; or hide from view any traffic or street signal; or obstruct the view in any direction from a street intersection.

*Sign imitating traffic signs* means signs that imitate official traffic signs or signals or signs that contain the word "stop," "go," "danger," "slow," "caution," "warning," or similar word, in such a fashion as to imitate official traffic signs or signals.

*Sign in disrepair* means any sign that contains damaged or defective parts, or otherwise presents an unsightly appearance due to lack of maintenance.

*Sign in marshes* means a sign erected or displayed in a marsh area or on land subject to periodic inundation by tidal action.

*Sign, monument*, means a freestanding sign with a sign (support) structure that is:

- (1) Designed as one architecturally unified and proportional element with the sign itself;



- (2) At least 90 percent of the width of the sign face; and
- (3) Solid from grade at the base of the sign to the top of the sign structure.

*Sign, off-premises*, means any sign located or proposed to be located at any place other than within the same platted parcel of land on which the specific business or activity being identified on such sign is itself located or conducted.

*Sign, on-premises*, means a sign which directs attention to a business or profession conducted, or to a principal commodity, service or entertainment sold or offered on the premises where such sign is located.

*Sign, pedestal*, means a freestanding sign with a sign (support) structure that is:

- (1) Designed as one architecturally unified and proportional element with the sign itself;
- (2) At least 50 percent of the width of the sign face; and
- (3) Solid from grade at the base of the sign to the top of the sign structure.

*Sign, portable*, means signs which usually rest on the ground on wheels or metal legs, and may be temporarily anchored by weights and/or cables attached to stakes driven into the ground.

*Sign, real estate*, means temporary sign advertising the real property upon which the sign is located for rent or lease or sale; advertising a business or businesses to be located on the premises; or advertising the architect, contractor, developer, finance organization, subcontractor or material vendor upon which property such individual is furnishing labor, services or material.

*Sign, roof*, means any sign erected upon, against, or directly above a roof or roof eave, or on or above any architectural appendage above the roof or roof eave.

*Sign, snipe*, means a nonpermitted sign pasted or attached to utility poles, trees, fences, or other locations.

*Sign, temporary*, means signs that are not permanently attached to a building, other structures or the ground and do not meet structural standards recognized and enforced by the Building Inspections Services Department.

*Sign, vehicle*, means a permanent or temporary sign affixed, painted on, or placed in or upon any parked vehicle, parked trailer or other parked device capable of being towed, which is displayed to attract the attention of the motoring public or pedestrian traffic.

*Sign, wall/facade*, means a sign painted on or attached to the outside of a building, and erected parallel to the face of a building and supported throughout its length by such building.

*Single-family, detached dwelling* means a building containing one dwelling unit that is not attached to any other dwelling unit and is surrounded by yards or open space.

*Social or civic organization*.

- (1) The term "social or civic organization" means an establishment providing meeting, recreational, or social facilities for a nonprofit association, primarily for use by members and guests of youth organizations, fraternal organizations, and other similar groups.
- (2) The term "social or civic organization" does not include any type of use that is a residential facility, such as fraternity or sorority houses.

*Social club or lodge* means a building, structure, or grounds, or portion thereof, which is owned by or leased to private organizations, social clubs, or nonprofit associations for meeting, recreational, or social purposes. The use of such premises is restricted to the members of these organizations and their guests.

*Special exception use* means a use which may be permitted by the BZA pursuant to section 12-161.

*Special trade contractor* means an establishment that specializes in a specific aspect of construction, such as carpentry, electrical, painting, plumbing, roofing or tile.

*Stable* means a building or land where horses are kept for private or commercial use including boarding, sale, rental, breeding or raising of horses.

*Standard cubic foot (scf)* means a cubic foot of gas at standard temperature and pressure, which are 68 degrees Fahrenheit and 29.92 inches of mercury.

*Stealth tower* means a communications tower not exceeding 120 feet in height designed to unobtrusively blend into the existing surroundings so as not to have the appearance of a communication tower and is designed to hide, obscure or conceal the presence of the towers and antennas. Examples of stealth towers include, but are not limited to, antenna tower alternative structures, architecturally roof-mounted antennas, building-mounted antennas painted to match the existing or proposed trees and landscaping, antenna structures designed to look like light poles or electrical utility poles, artificial trees, clock towers, flagpoles, steeples, water towers or water tanks.

*Story* means that part of a building included between the surface of one floor and the surface of the floor next above, or if there be no floor above, that part of the building which is above the surface of the highest floor of the building.

*Story, first*, means the first habitat interior floor of a structure above the required flood elevation.

*Story, one-half*, means a habitable floor which has heated square footage that is no greater than one-half the heated square footage of the largest story.

*Street* means a vehicular way which may also serve in part as a way for pedestrian traffic, whether called a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place, alley, mall or other designated.

*Street, arterial*, means a street used primarily or designed for through traffic, usually on a continuous route.

*Street, collector*, means a street used or designed to carry traffic from minor streets to arterial or major streets.

*Street, cul-de-sac*, means a street with only one means of ingress and egress and having a turnaround at the end.

*Street line* means a lot line separating a street from a lot or parcel.

*Street, local*, means a street other than an arterial or collector used or designated primarily to provide access to abutting property. Marginal access streets, cul-de-sacs and loop streets are examples of types of local streets. See also *Street, minor*.

*Street, loop*, means a local street that has its only ingress and egress at two points on the same (collector) street.

*Street, minor*, means a street other than an arterial or collector used or designated primarily to provide access to abutting property. Marginal access streets, cul-de-sac streets, and loop streets are examples of types of minor streets.

*Street, stub*, means a street that intersects with a local street and extends, usually one lot deep, to the property line of the development or rear of the block being developed.

*Structural alterations* means any change in the supporting member of a building such as a bearing wall, column, beams or girders.

*Structure* means anything constructed or erected, the use of which requires more or less permanent location on the ground, or which is attached to something having a more or less permanent location on the ground.

*Subdivider* means any person, firm, corporation, partnership or association acting individually or as a unit who causes land to be divided for the use of himself or others.

*Subdivision* means the division of a lot, block, tract, or parcel into two or more lots, blocks, tracts or parcels or any division of land involving the dedication of a new street or other public right-of-way or a

change in existing streets, alleys, easements, water, sewer or other public improvements. The term "subdivision" also includes the resubdivision of a previously subdivided lot, block, tract or parcel. Subdivision regulations ("land development regulations") are defined pursuant to S.C. Code 1976, § 6-29-1110(2).

*Subdivision improvement agreement* means an agreement which may be required and accepted by the town or another designated governmental agency to ensure that necessary improvements required as part of an application for development will be satisfactorily completed.

*Subdivision regulations* means a recorded description of development standards prepared and approved in compliance with article III of this chapter.

*Subgrade* means the top surface of a roadbed upon which the pavement structure and shoulders are constructed.

*Swale* means a depression in the ground that channels runoff.

*Swale, major*, means a drainage system with a drainage swale one foot in depth or greater.

*Swale, minor*, means a drainage system with a drainage swale not exceeding one foot in depth.

*Teardown* means the construction or remodeling of single-family homes to the maximum allowable size permitted by land use and zoning regulation in neighborhoods distinctly characterized by considerably smaller homes.

*Temporary* means existing or continuing for a limited period of time as determined by a decision-making body.

*Temporary building* means a building used temporarily for the storage of construction materials and equipment incidental and necessary to on-site permitted construction or utilities, or other community facilities, or used temporarily in conjunction with the sale of property within a subdivision under construction.

*Tobacconists* means tobacco retailers whose business exclusively or primarily involves the sale of tobacco products and related goods.

*Town* means the Town of Kiawah Island, South Carolina, a municipal corporation organized and existing under the Laws of the State of South Carolina.

*Town Council* means the Town Council of the Town of Kiawah Island, South Carolina; also referred to as the "Council."

*Townhouse* means a one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from another unit by one or more vertical common fire-resistant walls.

*Tract* means the entire land area of a proposed subdivision.

*Traffic mitigation measures* means improvements and/or transportation management strategies to restore or maintain acceptable levels of service for a roadway segment or segments, including, but not limited to turn lane additions, acceleration/deceleration lanes, a new off-Island Reception Center/security checkpoint, other road widening alternatives, vanpools and other alternatives to decrease traffic volume or increase roadway capacity.

*Traffic mitigation plan* means a plan to restore or maintain acceptable levels of service for a roadway segment or segments.

*Tree* means any self supporting woody plant having a single trunk or trunks of two inches dbh or greater and usually having branches.

*Tree protection fencing* means a fence or wall at least four feet in height that ensures the protection of protected and Grand trees during development.

*Understory tree* means a tree, ten to 12 feet tall at the time of planting, which will grow to a minimum height of 20 feet at maturity.

*Use* means the purpose or activity for which land and buildings are designed, arranged or intended, or for which land or buildings are occupied or maintained.

*Use, multiple*, means the development of land or buildings for a variety of complementary or integrated residential, nonresidential or community service uses.

*Use permitted by right* means a principal use permitted without the requirement of a special exception.

*Utility* means a provider of electricity, gas, water, sewage service, telephone, cable or other similar service for principal development, and the provider of the service is publicly regulated.

*Utility service, major*, means facilities and structures that are necessary for the generation, transmission, and/or distribution of utilities to support principal development, such as generation facilities, electrical and telephone switching facilities, electric substations, pumping stations, sewage collection or disposal facilities, water or sewage treatment plants, water storage tanks, sewage collector or trunk lines, water mains, and similar facilities.

*Utility service, minor*, means minor structures, such as lines and poles that are necessary to distribute utilities and provide service.

*Vacation Club, Private, see Destination Club*

*Variance* means a relaxation by the Board of Zoning Appeals, of the dimensional regulations of the ordinance, where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the results of actions or the situation of the applicant, a literal enforcement of this code would result in unnecessary and undue hardship; and such variance is consistent with S.C. Code 1976, § 6-29-800.

*Vehicle repair, consumer.*

- (1) The term "consumer vehicle repair" means an establishment that primarily provides service to automobiles, light and medium trucks, motorcycles or recreational vehicles. These services include the maintenance, repair, or refinishing of motor vehicles, including both minor and major mechanical overhauling, paint and body work. Generally, the customer does not wait at the site while the service or repair is being performed.
- (2) The term "consumer vehicle repair" excludes any dismantling or scrap and salvage service.

*Vehicle service, limited*, means an establishment that provides direct services to motor vehicles where the driver or passengers generally wait in the vehicle or nearby while the service is performed.

*Vehicle storage.*

- (1) The term "vehicle storage" means an establishment offering long or short-term storage of operating vehicles or vehicles contracted for repair.
- (2) The term "vehicle storage" excludes any dismantling, scrap and salvage service, or junked vehicle yards.

*Veterinary service* means an establishment offering veterinary services and hospitals for animals.

*Vibration* means the periodic displacement or oscillation of the earth.

*Wall or fence* means a structural device erected to serve as an architectural element, landscape element, visual screen or physical barrier.

*Waste-related use.*

- (1) The term "waste-related use" means uses that collect or receive solid or liquid waste for disposal, treatment, transfer to another location, or production of energy from the waste.
- (2) The term "waste-related use" does not include uses otherwise defined as utilities.

*Water and sewage treatment facility* means and includes facilities providing service, maintenance, or repair of essential public utilities to one or more developments including, but not limited to wells, pumping stations, boosters, reservoir, repeaters, water storage tanks, lift stations, regulators, and other similar facilities.

*Water body* means property determined to be under water no less than 11 months of the year and under such standing water for a continuous period of no less than nine months of the year.

*Water main* means any system of continuous piping, the principal artery of the water or sewer system to which branches or lines may be connected.

*Waterfront property* means property within 500 feet of any river, tidal wetland or waterway, including saltwater marshes. Property abutting freshwater wetlands shall not be considered waterfront property.

*Wetlands, freshwater*, means those areas of land that are inundated or saturated by fresh water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions and delineated as freshwater wetlands by the U.S. Army Corps of Engineers.

*Wholesale sales* means an establishment engaged in the wholesale sale of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on site sales or order taking, and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited. Products may be picked up on site or delivered to the customer.

*Written interpretation* means any review or evaluation by the Planning Director, in written form, concerning this chapter, the comprehensive plan or any other relevant documents.

*Yard* means an open, unoccupied space other than a court, on the lot in which a building is situated, and which is unobstructed from the ground to the sky.

*Yard, front*, means an open space unoccupied by buildings or structures (except as hereafter provided) across the full width of the lot extending from the front line of the principal building to the front property line of the lot.

*Yard, front depth* means the minimum horizontal distance from the front line of the principal building to the front line of the lot.

*Yard, rear*, means an open space unoccupied by buildings or structures (except as hereafter provided) across the full width of the lot extending from the rear line of the principal building to the rear property line of the lot.

*Yard, rear depth* means the minimum horizontal distance from the rear line of the principal building to the rear line of the lot.

*Zoning district* means a specifically delineated geographic area or zone in the Town of Kiawah Island within which uniform development regulations and requirements govern the use, density and the placement, spacing, or size of buildings.

*Zoning permit* means a permit issued by the Planning Department that acknowledges that the intended land use, structure, building, or construction complies with the provisions of this chapter or authorized variance therefrom. A zoning permit shall be required prior to the activities described in section 12-165.

(b) All definitions not found in this section are defined as they appear in the latest edition of the Black's Law Dictionary.

(Code 1993, art. 12D; Ord. No. 94-12, § 2(12D-102), 9-26-1994; Ord. No. 2005-08, art. 12D, 10-12-2005; Ord. No. 2006-08, § 2.3, 11-7-2006; Ord. No. 2010-02, § 2.1, 3-2-2010; Ord. No. [2015-04](#), § 2, 4-14-2015)

Secs. 12-375—12-391. - Reserved.



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## **TOWN COUNCIL**

### **Agenda Item**





## Request for Action

TO: Town Council

FROM: Jim Jordan

SUBJECT: Kiawah Conservancy Funding Requests

DATE: November 5, 2019

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### BACKGROUND:

The Town of Kiawah Island (TOKI) has partnered with and provided financial support to the Kiawah Conservancy for many years. During FY 18-19, the Town provided \$70,000 from County ATAX to support 5 different Conservancy programs. This year (FY 19-20), the Town has again budgeted \$70,000 to support Conservancy projects. The Kiawah Conservancy submitted three funding proposals for this fiscal year to the Town's Environmental Committee which were reviewed and discussed at the committee's October 10 meeting.

### ANALYSIS:

The Conservancy's proposed projects for FY 19-20 are as follows:

- |  |          |
|--|----------|
| 1. Groundwater Table Research and Monitoring | \$50,000 |
| 2. Marsh Vulnerability Study                 | \$19,000 |
| 3. Native Plant Symposium                    | \$18,000 |

The Environmental Committee was generally supportive of all 3 projects but felt that the first two provided the most value. In addition, the first 2 projects both address the issue of flooding and sea level rise, which is a very important issue for the Kiawah community.

### ACTION REQUESTED:

Approve funding for the Groundwater and Marsh Vulnerability Projects at a cost not to exceed \$70,000.

BUDGET & FINANCIAL DATA: This line item would utilize County ATAX funds.



**Environmental Science Committee**

**[Approved as amended: October 3, 2019]**

**Projects Proposal to the Town of Kiawah Island**

**FY 2019-2020**

**October 2019**

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**Conservancy's Comprehensive Project Plan**

Groundwater Table Research and Monitoring

Marsh Vulnerability and Water Quality Monitoring Study

Native Plant Symposium

## **Comprehensive Project Plan**

The Kiawah Conservancy will focus on several interconnected projects identified within the Town's Comprehensive Plan and provide critical information in regards to the environmental status of the island. These projects will aid in prioritizing habitat enhancement and conservation efforts to improve the island's resilience to coastal natural hazards (i.e., sea-level rise, extreme weather events, and flooding). The overall theme of these projects is related to native vegetation in various natural habitats and landscaped portions of the island. The goal of these projects is to enhance natural habitat, improve resilience planning and implementation, and begin establishing long-term monitoring efforts.

To enhance project outcomes, the Conservancy will facilitate communication among the project groups and incorporate an educational outreach component to each project. The Conservancy project liaison will meet with key members of each research group monthly to receive progress updates, provide guidance, and follow up on action items. These monthly meetings will occur either in person or through Zoom video conferencing. By establishing communication among the individuals involved in the research projects, the Conservancy will ensure collaboration between projects. An advisory board will assist in the initial development of the project and will meet as needed throughout the project timeline to ensure study rigor.

The educational outreach component of each project is crucial for disseminating information gathered. Each project will result in a suite of deliverables, including speaking engagements, outdoor presentations and programs, printed publications and digital content, and project reports. Formal presentations of the project results to the Conservancy and the Town of Kiawah Island Environmental Committee will be a requirement of each monitoring and research projects.

## **Groundwater Table Research and Monitoring (\$50,000)**

Vegetation on barrier islands relies on groundwater to remain healthy. Groundwater on a barrier island takes the form of a freshwater lens that “floats” on deeper saltwater. The only sources of groundwater for a barrier island are precipitation and irrigation water pumped in from off-island. Saltwater inundation during storms, king-tide events, and eventually sea level rise causes saltwater to slowly infiltrate and threaten the quality of groundwater by increasing salinity. This will greatly impact island vegetation and wildlife that depend on the native vegetation. Studying the groundwater and mapping Kiawah’s freshwater lens will provide crucial information about the current and potential conditions of saltwater intrusion and provide better insight into the perceived impacts on the plant community. Information about the groundwater would also provide information about the influence of Kiawah’s extensive pond system on the freshwater lens. Understanding the groundwater dynamics and potential impacts on native vegetation can give decision-makers objective authority for policies regarding the drainage of island ponds. This would also help provide information about siting for green-infrastructure projects (e.g., rain gardens and bioretention areas), implementation of Low Impact Development (LID) practices, and restoration projects that will help to improve the island’s resilience to flooding and enhance areas with a diminishing freshwater lens.

The project proposed herein would be the first phase of a multi-phase project to monitor groundwater across Kiawah Island, with a focus on salinity level and water table height. The initial exploratory phase of the project would take place over a period of 2 years. This would provide baseline information about groundwater on Kiawah and assist in strategizing for a long-term monitoring program of the island’s freshwater lens. Two methods would be considered concurrently for this project; 1) stratified sampling at 2-3 suitable sites with several stationary monitoring wells placed in close proximity and at different elevations (long-term monitoring to study groundwater dynamics) and 2) hand augering across the island in 10-25 acre section. Monitoring the freshwater lens over time can help us understand the dynamics of the groundwater with respect to fluctuations due to weather events and flooding. Hand augering would help create a map of the island’s groundwater table. In summary, studying the groundwater will provide valuable information to prepare for vegetative die-back of major forest species, policies regarding the island’s drainage infrastructure, promotion of salt-tolerant landscape plantings, and siting for landscape low impact development practices (e.g., rain gardens, constructed wetlands, permeable walking surfaces).

The large majority of the requested budget would provide funding for installation of monitoring wells, equipment for monitoring, and for a graduate student researcher to gather and analyze data. Dr. Tim Callahan, Chair of the Geology Department at the College of Charleston and Landon Knapp, Coastal Resilience Specialist, S.C. Sea Grant Consortium have indicated their interest in the study and would provide their resources and expertise, including selection of suitable sites. By involving a College of Charleston graduate student, this project will permit Kiawah to directly engage the expertise of Dr. Tim Callahan, a professor of hydrology at the College. KICA has indicated they have intentions to fund the construction of a rain garden, likely near the Demonstration Garden in Night Heron Park, which the Conservancy could use to promote low impact development practices for flood mitigation and recharging fresh groundwater reserves. The siting of stratified monitoring stations will be based on specific geological conditions which provide the most valuable data

towards enhancing our understanding of the Island's groundwater dynamics. Site selection and installation of monitoring devices would rely on approval of the property owner(s) and ARB, respectively.

### **Reasoning**

- Saltwater inundation during storms and king-tide events causes saltwater to slowly move inland and threaten the quality of groundwater by increasing salinity
- Vegetation on barrier islands relies on the freshwater lens found in the groundwater to remain healthy.
- Saltwater inundation and intrusion into the groundwater are a threat to vegetation on the island and will affect wildlife that depend on native vegetation
- Understanding the current conditions of the freshwater lens and perceived future impacts will help prioritize management efforts to benefit the community, as well as island wildlife and vegetation

### **Objectives**

- Monitor groundwater to provide crucial information about the current conditions of saltwater intrusion and the effects of coastal inundation on the freshwater lens
- Understand the dynamics of the groundwater table and freshwater lens as it relates to ponds, weather conditions, and the encroachment of saltwater
- Identify additional areas that are vulnerable to flooding due to groundwater influences
- Promote the use of rain gardens with native plants and other Low Impact Development practices to protect the island's fresh groundwater reserves
  - Speaking engagements (i.e., Conservation Matters)
  - Produced print and digital content for marketing and education
  - Walking tours and garden programs

### **Requirements and approximate costs associated or needed to accomplish this project**

- Establish a series of monitoring stations equipped with piezometers, with a focus on water table height and salinity, to collect data on groundwater over the period of 1-2 years
- Use of Kiawah Conservancy, KICA, KIGR, KRA ("Partners"), and other privately owned land across the island, with pre-selection of suitable sites and owner permission
- ARB approval of monitoring stations
- \$43,000 for equipment, installation, and data collection
  - \$18,000 for installation and equipment
  - \$25,000 for data collection
- \$3,000 for space, A/V equipment, stipends for speakers
- \$4,000 for printed publications
- Work with organizational partners to share funding and supply needed expertise and equipment

### **Outcomes**

- Understand groundwater dynamics on barrier islands
- Have insight into the perceived impacts on the native plant community and island habitat

- Provide Information for siting of green-infrastructure projects (e.g., rain gardens and bioretention areas), Low Impact Development (LID) practices, and habitat restoration projects to improve community and natural habitat resilience to changing environmental conditions
- Identify vulnerable areas to prioritize preservation and restoration efforts, which can help supplement credits to the FEMA FIRM Community Rating System to lower flood insurance rates
- Enhance current modeling related to localized flooding in the community
- Exemplify the need to use salt-tolerant, native vegetation in common areas and residential properties
- Provide decision-makers information necessary for determining the best practices for pond drainage to preserve freshwater reserves on the island
- Increase community support for Low Impact Development practices that improve island resilience
- Respond to the “Groundwater and Salt Intrusion” section in Town’s Amended Comprehensive Plan (page V-6)
- Assist the Town in pursuing Land Use goal 5 and Natural Resources goals 2b, 3a, 3d, and 6 as listed in the Comprehensive Plan by providing information about protecting key natural resources and promoting community resilience
  - Goal 6a - Town funding has the potential to serve as match funds for the Emergency Coastal Resilience Fund grant through NFWF/NOAA, which the Conservancy has garnered project support from State and Federal agencies.



## **Marsh Vulnerability Study (\$19,000)**

Sea-level rise and stormwater have the potential to greatly impact the health of salt marshes and present negative impacts on coastal communities. If salt marshes cannot accrete sediment quickly enough, or if the marshes' migration landward is blocked by physical barriers, rising water elevations will cause marsh vegetation to drown and convert to mud flats. These changes facilitate subsequent impacts to wildlife within the ecosystem and increases shoreline erosion by reducing the wave buffering effect which occur in healthy marshes. Increased flow of stormwater into the marshlands from pond outflows and drainage from impervious surfaces also impacts the marshland by increasing the volumetric flow within tidal creeks and contributing to erosion. Other coastal infrastructure used as erosion control devices (i.e., bulkheads and seawalls) can impede the migration of marshland onto higher ground and facilitate erosion on adjacent areas of higher ground.

Studying the historical progression of marshland vegetation, geological features, and human influences on the marsh will provide useful evidence regarding the future status of the marsh over time. This would also help identify areas of vulnerability within the marsh to prioritize wetland vegetation and oyster reef restoration efforts to enhance Kiawah's resilience to natural hazards, (i.e., sea-level rise and flooding) as well as reverse the unintended consequences of human actions. Information from this study can also be used to model, or better understand, future impacts caused by sea-level rise, flooding, and introduction of freshwater from pond outflows. Information from this project can be incorporated into the Town of Kiawah Island's Marsh Management Plan and by the Conservancy for identifying vulnerable areas to prioritize conservation efforts.

This project would rely on a graduate assistant (preferably a master's degree candidate) to conduct research on the marshlands along the Kiawah River watershed. Mapping software would be used to study historical and current LiDAR imagery gathered by the drone to study shoreline changes and marsh extent, as well as map any human influences on the marshland (e.g., drainage outfalls, bulkheads, docks, bridges). Data from the Coastal Resilience Evaluation and Siting Tool (CREST), compiled by the National Fish and Wildlife Foundation (NFWF), will be used in conjunction with the collected and publically available data for this project. These data combined will provide information to identify vulnerable areas in the marsh which impact humans and wildlife and to prioritize restoration projects. Dr. Norm Levine, Director of the Santee Cooper GIS Laboratory and Lowcountry Hazards Center at the College of Charleston, has agreed to provide resources and equipment for the project, including recruitment of a graduate student to conduct the research.

## **Reasoning**

- Rising water elevations can affect the ability of marshland vegetation to adapt to different conditions in the marsh, limiting their survival in harsh conditions and facilitating subsequent impacts to other wildlife within the ecosystem.
- Rising water elevations may cause the marsh to migrate inland if the topography of the area is amenable - (i.e., Erosion of the land abutting the marsh causing property loss).
- Outflows into the marsh and erosion control infrastructure in marshlands can facilitate erosion and make areas more vulnerable to sea-level rise, storm inundation, and coastal flooding.

## **Objectives**

- Use mapping software to study aerial LiDAR imagery to study the migration of soil and vegetation within the marsh.
- Obtain information to better understand and model future impacts caused by sea-level rise, flooding, and human influence on the marshland.
- Identify areas of vulnerability within the marsh to prioritize wetland vegetation and oyster reef restoration efforts to enhance island's resilience to environmental changes and natural hazards.
- Promote protection of the marshland ecosystem
  - Speaking engagements (i.e., Conservation Matters) with researchers
  - Articles in Naturally Kiawah magazine
  - Produced print for marketing and education

## **Requirements and approximate costs associated or needed to accomplish this project**

- Graduate student researcher (preferably a master's degree candidate) who would be stationed at the College of Charleston Lowcountry Hazards Center and occasionally travel to Kiawah Island (\$19,000)
- Use of LiDAR and data gathering equipment from the College of Charleston
- Coastal Resilience Evaluation and Siting Tool [CREST] (NFWF) which can be downloaded and utilized with ArcGIS mapping software.
- Work with organizational partners to share funding and supply needed expertise and equipment.

## **Outcomes**

- Information can be incorporated into the Town of Kiawah Island's Marsh Management Plan
- Information to help the Conservancy identify vulnerable areas to prioritize conservation and land preservation efforts.
- Provide useful evidence regarding the dynamics of the marsh over time.
- Identify areas of vulnerability within the marsh to prioritize wetland vegetation and oyster reef restoration efforts
- Model future impacts caused by sea-level rise, flooding, and introduction of freshwater from pond outflows.
- Respond to concerns mentioned under "Salt Marsh Preservation" in the Town's Amended Comprehensive Plan (page V-5)
- Assist the Town in pursuing Land Use goal 5; Natural Resources goals 2b, 2c, 3a, 3c, and 3d; and Priority Investment goal 4c, as listed in the Town's Comprehensive Plan by providing information about protecting key natural resources and promoting community resilience.
- Aid the Town by providing information related to the development of the Marsh Management Plan, as indicated by Natural Resources goal 5 (specific focus on 5a and 5c) and goal 6 in the amended Comprehensive Plan.
  - Goal 6a - Town funding has the potential to serve as match funds for the Emergency Coastal Resilience Fund grant through NFWF/NOAA, which the Conservancy has garnered project support from State and Federal agencies.

## **Native Plant Symposium (\$18,000)**

Landscaping with dense native vegetation enhances the available habitat for wildlife on Kiawah Island. Whenever a higher percentage of native plants is incorporated into these landscapes, the benefits to the island's biodiverse wildlife are maximized and will help sustain their populations. By promoting the use of native plants and educating the public on the suite of benefits these plants provide, residents and island entities would be more amenable to the use of native plants in their landscaping. Dr. Doug Tallamy, Professor of Entomology from the University of Delaware and author of several books describing the benefits of native plants, recently gave a presentation to a Kiawah Island audience that received positive feedback from the community.

With the island more focused on using native plants and positive responses to Dr. Tallamy's presentation, the Conservancy would like to organize a Native Plant Symposium with Dr. Tallamy as the primary presenter. The Symposium would be a multiple-day event with one day reserved for the presentation by Dr. Tallamy with other planned related events occurring in the day(s) leading up to the presentation. The smaller events would be hosted by other individuals knowledgeable about the benefits of native plants, with topics ranging from rain gardens, marshland buffers, and wildlife benefits. Funding would be associated with the plenary presentation at the symposium and for the smaller events prior. The Conservancy would like to request \$18,000 to fund these events, related publications for marketing and education, and for native plant materials freely available to residents and guests during the event.

### **Reasoning**

- Native vegetation provides a host of benefits that help sustain wildlife populations and influence biodiversity.
- The inclusion of native vegetation in landscaped common areas and residential properties enhances the habitat available to wildlife.
- Education and outreach events focused on the benefits of native plants can help garner support in the community towards including more native vegetation into developed landscapes.

### **Objectives**

- Promote the use of native plants in landscapes on Kiawah Island
- Host a two-day symposium to promote the use of native plants
- Organize a plenary speaking engagement to present on the wildlife benefits native plants provide
- Allow residents and island guests the opportunity to engage with Doug Tallamy and obtain literature on native plants
- Schedule several walking tours and activities to educate island residents and guests about native plants
- Promote other practices, such as rain gardens and enhancing vegetated buffers, which help maximize the utility of native plants in the landscape

### **Requirements and approximate costs associated or needed to accomplish this project**

- Schedule Doug Tallamy to present at the symposium in 2020
- Event space for symposium

- Schedule additional speakers to give presentations and walking tours which promote native plants (e.g., Clemson Extension, Carolina Clear Program, Roots and Shoots Native Plant Nursery)
- Areas and pathways for walking tours (Demonstration Garden, the Preserve nature area, Marsh Island Park)
- \$18,000 total for events and related expenses, with no costs associated with food or beverage
  - \$6,500 for event space and equipment
  - \$4,500 for speaker honorarium and expense
  - \$3,000 for native plant materials
  - \$4,000 for digital content and produced publications for marketing and education
- Work with organizational partners to promote the event and provide feedback to attendees

### **Outcomes**

- More support in the community towards planting natives in the landscape
- Increased promotion of the Town's "Grow Native" program and its associated resources (i.e., native plant database, wildlife website)
- Increased use of native vegetation in developed landscapes on Kiawah Island
- Provide additional information to practitioners about the benefits of using native plantings in the landscape.
- Assist the Town in pursuing Natural Resource goals 1a, 2b, 3(a-d), and 4d, as listed in the Town's Comprehensive Plan through education and outreach



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## **TOWN COUNCIL**

### **Agenda Item**



# TOWN OF *Kiawah Island*®

## Mayor

Craig E. Weaver

## Council Members

Maryanne Connelly

Daniel Prickett

Klaus Said

Chris Widuch

## Town Administrator

Stephanie Monroe Tillerson

## Alligator Safety Report

Workgroup; Ben Cheatham, Liz King, Maryanne Connelly

Periodic review of our wildlife handling is important to assure that we are making every effort to protect our people and out wildlife.

### Ensure Public Safety

#### **4 Goals:**

- Protect Public
- Protect Wildlife
- Eliminate legal liability exposure
- Retain alligators as an important element of the Kiawah experience

#### **Review and Evaluate:**

- Property owner and visitor awareness of alligator presence
  - On site signage
  - Owner/visitor communications
- Intervention protocols resources including record keeping
- Training adequacy of island resources
- Population control

#### **Resources:**

- Jim Jordan – Town Biologist
- Matt Hill – KICA Land and Lakes Management
- Tom Rainwater – Research Scientist from Clemson -Tom Yawkey Wildlife Center.
  - 35-year alligator study including alligator growth and reproduction, population management

### Areas for Investigation/Improvement if Necessary

#### **On Site Signage:**

- children and signage language issues
- heavily traveled paths
- golf course
- rental units



**Public and Property Owner Communications:**

- Training
  - Security Staff at gate
  - Golf operations
  - Andell Inn dock

**Reporting and Record Keeping:**

- Current system and security staff
- Identification and enforcement of unsafe human behavior

**Signage**

- 1) Add additional “DANGER” signs where necessary:
  - Resort Golf Courses
  - Night Heron lake areas
  - River Course (golf)
  - Andell Inn dock
  - Any paths heavily traveled where there are no signs
  - Areas where alligators bask that are near bike paths
- 2) Add new smaller placard to all signs so language differences among guests and children are understood
- 3) Add smaller signs to decks on rental accommodations
- 4) Check all bridges and docks for alligator signs
- 5) Add signage to fishing areas asking fisherman/women to stop tossing bait into lakes

**Public and Property Owner Communications:**

- 1) Add alligator awareness statement on back of visitor passes
- 2) Include statement of responsibility of homeowners to notify renters of alligator information in rental license
- 3) Include alligator safety information in rental unit information
- 4) Continue to educate property owners about alligator through Town publications
- 5) Avoiding confrontation with alligators and unsafe human behavior
- 6) Post information online
- 7) Investigate language translation

**Alligator Handling and Behavior Education:**

- 1) Record keeping:
  - Town
  - Resort
  - KICA
    - Information

- 2) Town to educate security members and deputies on the protocol for handling alligators and record keeping
- 3) Include alligator alert in golf operations protocol
  - When reviewing golf courses information – pin placement, restrooms, etc.
    - “Don’t approach alligators while playing”
- 4) Continue Nature Center programs on alligators

### **Separating Alligators from People – Avoiding Encounters:**

- 1) Identify heavily traveled paths for prevention signage and barriers
- 2) Evaluate use of islands ramps reviewing platforms with goal of increasing distance between human and alligators
- 3) Floating platforms:
  - a. Positioned in the deeper areas of the lake and secured with an anchor
  - b. Existing floating platforms are at Night Heron and Surfsong/Governors Lake
  - c. Test different platform styles and sizes to determine alligator preference
  - d. Learn to style man made basking areas
  - e. Positioned on the shallow edge areas of the lakes
  - f. Look at artificial and natural logs.
- 4) Fencing and vegetation
  - a. Install fencing and vegetation a distance from lake edge to allow gators to continue to bask on lake edge
  - b. Provide a clear indication that people should not cross the fence line.

### **Alligator Population Control Policy**

According to the professionals, alligators self-regulate their population. Of course all nuisance alligators should be removed immediately and disposed of. Our population has been consistent for years. Questions about removing larger alligators are asked frequently but in reality, a large alligator can be 50 – 60 years old and it provide a sense of order among the population. Removal could be more disruptive then realized.