



# TOWN OF *Kiawah Island*

## TOWN COUNCIL MEETING

Virtual Via Zoom

February 2, 2021; 2:00 PM

### AGENDA

#### Mayor

John D. Labriola

#### Council Members

Maryanne Connelly

John Moffitt

Scott M. Parker, MD

F. Daniel Prickett

#### Town Administrator

Stephanie Monroe Tillerson

- I. **Call to Order:**
- II. **Approval of Minutes:**
  - A. Minutes of the Town Council Special Call Meeting of January 5, 2021 [Tab 1]
  - B. Minutes of the Town Council Meeting of January 5, 2021 [Tab 2]
- III. **Mayor's Update:**
- IV. **Citizens' Comments (Agenda Items Only):**
- V. **Presentation:**
  - A. Kiawah Conservancy 2030 Strategic Plan: "A Call To Conservation"
  - B. Main Road Corridor Update
- VI. **Old Business:**

None
- VII. **Consent:**
  - A. To Consider the Approval of the Contract Agreement for prosecuting Town Attorney Services with Adam Young of Young & Young, Attorneys at Law [Tab 3]
  - B. To Consider the Approval of the Contract With Coastal Science and Engineering [Tab 4]
  - C. To Consider the Approval of the Contract Amendment with Island Beach Services dba Barrier Island Ocean Rescue [Tab 5]
  - D. To Consider the Approval of the Franchise Agreement Amendment with Watersports Unlimited LLC dba Tidal Trails [Tab 6]
  - E. To Consider the Approval of the Purchase of an Air Purification System [Tab 7]
  - F. To Consider the Approval of the Purchase of Public Safety Radios [Tab 8]
- VIII. **New Business:**
  - A. To Consider Approval of **Ordinance 2021-01** - An Ordinance to Amend Chapter 12 - Land Use Planning and Zoning - Article 4 – Section 12-374 - Definitions. – **Public Hearing and First Reading** [Tab 9]
  - B. To Consider Approval of **Ordinance 2021-02** - An Emergency Ordinance of the Town Council of the Town of Kiawah Island Regarding Face Coverings, Restrictions on Restaurants, Establishments that Possess a State Permit to Sell Alcohol, Other Businesses and Facilities, and Essential Businesses [Tab 10]
  - C. To Consider Approval of **Ordinance 2021-03** - An Ordinance of the Town Council of the Town of Kiawah Island Regarding Face Coverings, Restrictions on Restaurants, Establishments that Possess a State Permit to Sell Alcohol, Other Businesses and Facilities, and Essential Businesses - **First Reading** [Tab 11]

- D. To Consider Approval of a Modified Program from Charleston Area Therapeutic Riding for the use of Charitable Grant funding [Tab 12]
- E. 2021 Committee Appointments
  - Board of Zoning Appeals [Tab 13]
  - Planning Commission [Tab 14]

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

**X. Council Member:**

- a. Committee Updates
- b. General Comments

**XI. Citizens' Comments:**

**XII. Adjournment:**



Tab | 1

**TOWN COUNCIL**

**Agenda Item**

**TOWN COUNCIL**  
**SPECIAL CALL MEETING**  
Virtually Meeting Via Zoom  
January 5, 2021; 11:00 am

**Minutes**

**I. Call to Order: Mayor Labriola called the meeting to order at 11:00 am.**

**Present at the meeting:** John D. Labriola, Mayor  
Dan Prickett, Councilmember  
Maryanne Connelly, Councilmember  
John Moffitt, Councilmember  
Dr. Scott Parker, Councilmember

**Also Present:** Stephanie Tillerson, Town Administrator  
Joe Wilson, Town Attorney  
Petra Reynolds, Town Clerk  
Stephanie Braswell Edgerton, Communications Manager

***Berkeley Electric Cooperative Inc.***

Tony Vincent – VP Marketing and Government Affairs  
Bert Walling - Manager of Government Relations and Records  
Thomas Barnette – Manager of Construction and Maintenance  
Scott Bennett – District Line Superintendent (on Island)  
Tim Mosley – VP Engineering and Operations  
Libby Roeig – Manager of Communications

**II. New Business:**

**A. Update from Berkeley Electric on the Power Outage**

Mayor Labriola stated that today's meeting was in response to a request from the Town to have members of Berkeley Electric Cooperative (BEC) address questions on the Kiawah Island power outage, which occurred on December 26th, 2020. Questions were submitted to BEC prior to the meeting, and the public would be able to submit questions during the virtual meeting.

Mr. Walling, with BEC, began by describing the event on December 26<sup>th</sup> as an “uncharacteristic outage” and introduced the other representatives of BEC who would be participating in the meeting. Mr. Mosley indicated that in response to the questions received, BEC sent a letter to the Town outlining the chain of events leading up to and causing the outage to occur. He and Mr. Barnette reviewed the project of the upgrading of the Legareville Station, which would double its capacity and provide redundancy to the area. They explained that unexpected delays with the anticipated completion of the upgrading project in November, a Seabrook substation power transformer tripped due to overload, and the cold and windy weather conditions contributed to the delay in restoring power.

Council Members asked questions on the decisions made in planning and throughout the upgrading process, underestimation of load demand and weather conditions if the population on the Islands was taken into consideration when making upgrade plans, and placement of a mobile substation at a project site for back-up in the event of an unexpected system failure.



Council Members engaged in an in-depth discussion on communications and the information released by BEC, indicating better communication of the situation, and expected timelines would elevate community frustration.

Mayor Labriola pointed out that Town Council, being responsible for the community's health and safety, was unable to respond to questions due to BEC's lack of communication on the project and possible risks. Mr. Walling responded by stating that communications were established immediately the morning of the event and continued throughout the day. Ms. Tillerson confirmed that as the point of contact for the Town, she was notified and that all public information released by BEC was sent out to the community by the Town via eBlast.

Ms. Braswell Edgerton asked about BEC's communications methods and if there was any direct communication with the Kiawah and Seabrook residents who were experiencing the outage. Ms. Roeig discussed the channels through which information is disseminated and can be obtained. She indicated the best way to receive the most up-to-date information was on BEC's social media platforms. Discussion included ways to encourage the use of social media as a primary source of information along with other suggestions to improve the flow of information, including BEC representation attendance at monthly Town meetings.

Ms. Tillerson pointed out a question received from the public referring to a message sent out on December 25<sup>th</sup> requesting a reduction in power usage and the concern that all customers did not receive it. Ms. Roeig stated the email was part of the "Beat the Peak" subscription-based program. Any member can sign up to receive notifications when BEC expects high usage levels and was unrelated to the outage event.

Mayor Labriola reviewed additional questions received from the community to ensure that BEC's representatives had addressed all.

**III. Citizens' Comments**

**IV. Adjournment:**

*Councilmember Connelly made a motion to adjourn the meeting at 11:20 am. The motion was seconded by Mayor Pro Tem Prickett and was unanimously passed.*

Submitted by,

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Petra S. Reynolds, Town Clerk

Approved by,

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John D. Labriola, Mayor

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Date



Tab | 2

**TOWN COUNCIL**

**Agenda Item**

# TOWN COUNCIL MEETING

Virtually Meeting Via Zoom

January 5, 2021; 2:00 PM

## MINUTES

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

### ~~II. Pledge of Allegiance~~

Present at the meeting: John D. Labriola, Mayor  
Dan Prickett, Councilmember  
Maryanne Connelly, Councilmember  
John Moffitt, Councilmember  
Dr. Scott Parker, Councilmember

Also Present: Stephanie Tillerson, Town Administrator  
Joe Wilson, Town Attorney  
Petra Reynolds, Town Clerk  
Stephanie Braswell Edgerton, Communications Manager

### III. Approval of Minutes:

A. Minutes of the Town Council Meeting of December 1, 2020

*Councilmember Prickett made a motion to approve the minutes of the December 1, 2020 Town Council Meeting. Councilmember Connelly seconded the motion and the minutes were unanimously approved.*

B. Minutes of the Special Call Town Council Meeting of December 4, 2020

*Councilmember Prickett made a motion to approve the minutes of the December 4, 2020 Special Call Town Council Meeting. Councilmember Connelly seconded the motion and the minutes were unanimously approved.*

C. Minutes of the Town Council Workshop of December 14, 2020

*Councilmember Connelly made a motion to approve the minutes of the December 14, 2020 Town Council Workshop. Councilmember Moffitt seconded the motion.*

Councilmember Parker questioned if Seabrook and Johns Island made an official comment on the Main Road Corridor Project. Ms. Tillerson indicated that she was not aware of any comments but would follow-up and forward any comments to Councilmembers. Mayor Labriola also requested a copy of any response from the Community Association.

*Following the discussion, the minutes were unanimously approved.*

### IV. Mayor's Update:

Mayor Labriola commented on the passing of former Mayor Piet and thanked him for all the contributions he made to the Town and for setting the framework of today's Community.

Mayor Labriola stated earlier in the day, there was a meeting with Berkeley Electrical Cooperative (BEC) to discuss the outage that occurred on December 26<sup>th</sup>. He indicated there were lessons learned on the part of BEC. Discussion of a need for communication improvement highlighted their use of social media as the primary platform to disseminate information. To better communicate BEC's long-range plans, a representative would be requested to attend one of the Town's monthly committee meetings.

Mayor Labriola reported on the meeting he and Ms. Tillerson had with Clemson on the issues with the use of Second Generation Anticoagulants (SGAs). He felt that they were committed and that progress had been made to eliminate the use, but much more work would be required with continual vigilance and monitoring. Mayor Labriola also indicated that he and Ms. Tillerson met with Senator Chip Campsen, Chairman of the Fish, Game, and Forestry Committee. He expressed his interest in the issue Kiawah is having with the use of SGAs, and while hope is that voluntary efforts would be successful, he would do what he could from a legislative perspective.

Mayor Labriola stated that the Council Retreat would be held in January and would be an opportunity to work with staff on ideas to lay the framework for 2021.

**V. Citizens' Comments (Agenda Items Only):**  
**None**

**VI. Old Business:**

- A. To Consider Approval of **Ordinance 2020-14** - An Ordinance to Amend Article 14, General Regulations, Chapter 1, Flood Damage Prevention, Division 1 - General Standards, Division 2 – Administration and Enforcement, and Division 3 - Provisions for Flood Hazard Reduction – **Second and Final Reading.**

Mayor Labriola stated Ordinance 2020-14 was approved on the first reading by the prior Council and was modifications to the language were made for the second reading.

Mr. Spicher stated the first reading included a definition, the correction of typographical errors, and an exception that dealt with the adoption of the new flood insurance rate maps. The exception is being recommended to be omitted for the second reading of the ordinance.

***Councilmember Prickett made a motion to approve the second reading of Ordinance 2020-14. Councilmember Parker seconded the motion.***

***Councilmember Connelly made a motion to amend Ordinance 2020-14 to adopt the changes recommended by Mr. Spicher. Councilmember Prickett seconded the motion.***

Mr. Spicher explained that the new flood maps will become effective on January 29<sup>th</sup> and will reduce base flood elevations across the entire island. The reductions have adversely affected how homes are currently designed with roof height elevation and the ability to park under homes. He presented a demonstration of the calculations and the effects of home design. To resolve the issue, the exception was added to use the current flood maps in new construction projects. The intent was to use the current flood maps to develop roof height elevations and use the new flood maps to establish base flood elevations. After the first reading of the ordinance, it was discovered that FEMA would not allow a design to utilize two different flood maps, thereby requiring the omission of the exception. He noted an alternate resolution requiring a zoning amendment will be presented to the Planning Commission for approval.

***Following the discussion, the motion to amend Ordinance 2020-14 was unanimously passed.***

***Councilmember Connelly made a motion to approve Ordinance 2020-14 as amended. Councilmember Parker seconded the motion and was unanimously passed.***

**B. Approval of the Amended Dates for the 2021 Ways and Means Committee and Environmental Committee Meetings**

Mr. Labriola stated that the Ways and Means Committee meeting would be moved to the fourth Monday of the month, and the Environmental Committee meeting would be moved to the second Wednesday of the month.

***Councilmember Moffitt made a motion to approve the amended dates of the 2021 Ways and Means and Environmental committee meetings. Councilmember Connelly seconded the motion and was unanimously passed.***

**VII. New Business:**

**A. Discussion of Building Base Height Elevation and Roof Heights**

Mr. Spicher stated that a full presentation of the recommended zoning change, terminology, and determining factors would be given at the Planning Commission meeting taking place via Zoom on January 6<sup>th</sup> at 3:00 pm.

Ms. Tillerson indicated if the Planning Commission recommends approval of the text amendment to the zoning ordinance, it will come to the Council for the first of two readings at the February meeting.

**B. Discussion of the Town's COVID Emergency Ordinance**

Ms. Tillerson began the discussion by stating that she attends the bi-weekly COVID calls with the Charleston County Emergency Management team, which may include a representative from DEHC and MUSC. She reviewed the current rise in the COVID statistics for the State and the Lowcountry, noting that while there was a rise, the statistics for Charleston County numbers were not as high as reported in the early part of the pandemic. Those statistics are expected to rise in the coming weeks due to the holidays. She also reviewed the information recently released on the protocols for the disbursement of vaccines available on the DHEC website. Councilmember Prickett added that one of the local providers, MUSC, has indicated that they can only be distributed to two locations due to the Pfizer vaccines' storage requirements. It is expected that testing will begin in late January with public notices released.

Councilmember Connelly stated that currently, there are 2000 people hospitalized with the COVID virus, and local hospitals are at 78% occupancy. She noted that 30% of tests administered are positive, a number that should be five to eight percent. The virus is far from over and requires continued education.

Councilmember Parker questioned why the Town is not holding businesses accountable for enforcement of the current emergency ordinance requirements. Ms. Tillerson stated the business owners were willing to help with enforcement but unwilling to put their employees in a possible confrontation or argument with customers. Councilmembers further discussed the ordinance and the need for continued monitoring by Town code enforcement staff.

**C. To Consider Approval of the Amendment to the Town of Kiawah Island Employee Handbook**

Mayor Labriola stated that the amendment to the employee handbook to provide maternity leave benefits includes compensation percentage levels based on years of service. While in favor of the

addition of the benefit, he was not in favor of tiering relative to time. He suggested that the benefit be consistent with the existing policies and available to full-time employees after one year of service and full salary benefits for the eight-week maternity leave term. Councilmember Prickett agreed to the amendment.

***Councilmember Prickett made a motion to approve the amendment to the Town of Kiawah Island Employee Handbook, as noticed. Councilmember Connelly seconded the motion.***

***Councilmember Moffitt made a motion to amend the maternity leave amendment to the Town of Kiawah Island Employee Handbook to remove the tier requirement only re lectin a one-year employment requirement. Councilmember Prickett seconded the motion and the motion was unanimously passed.***

***Councilmember Parker made a motion to approve the amendment to the Town of Kiawah Island Employee Handbook as amended. Councilmember Moffitt seconded the motion and was unanimously passed.***

**D. Appointment of Mayor Tempore**

***Mayor Labriola made a motion to appoint Councilmember Prickett as Mayor Pro Tem. Councilmember Connelly seconded the motion and was unanimously passed.***

**E. Appointment of Town Attorney**

***Mayor Pro Tem Prickett made a motion to appoint Mr. Joe Wilson as Town Attorney. Councilmember Parker seconded the motion and was unanimously passed.***

**F. Appointment of Town Treasurer**

***Councilmember Connelly made a motion to appoint Ms. Dorota Szubert as Town Treasurer. Councilmember Moffitt seconded the motion and was unanimously passed.***

**G. Appointment of Town Clerk**

***Councilmember Connelly made a motion to appoint Ms. Petra Reynolds as Town Clerk. Councilmember Parker seconded the motion and was unanimously passed.***

**H. Appointment of Municipal Judge**

Mayor Labriola recommended the appointment of Sanford Ain as the Municipal Judge. He noted that Mr. Ain was selected after interviewing the four candidates recommended by Mr. Wilson and Judge Strauch.

***Mayor Labriola made a motion to appoint Mr. Sanford Ain for a three-year term as the Municipal Judge. Mayor Pro Tem Prickett seconded the motion.***

Ms. Tillerson stated that Judge Strauch would be continuing as the Municipal Court Judge until the end of February when his term expires.

***Following discussion, the motion was unanimously passed.***

**I. 2021 Committee Appointments**



Arts Council & Cultural Events Council

***Councilmember Connelly made a motion to reappoint the members of the Arts and Cultural Events Council as presented. Councilmember Parker seconded the motion and was unanimously passed.***

Audit Committee

***Councilmember Connelly made a motion to reappoint the members of the Audit Committee as presented. Councilmember Parker seconded the motion and was unanimously passed.***

Environmental Committee

***Councilmember Parker made a motion to reappoint the members of the Environmental Committee as presented. Councilmember Moitt seconded the motion and was unanimously passed.***

Public Safety Committee

***Councilmember Connelly made a motion to reappoint the members of the Public Safety Committee as presented. Councilmember Parker seconded the motion and was unanimously passed.***

Public Works Committee

Ms. Tillerson recommended the reappointment of the current member of the Public Works Committee.

***Councilmember Connelly made a motion to reappoint the members of the Public Works Committee as presented. The motion was seconded and was unanimously passed.***

SATAX Committee

Mayor Pro Tem Prickett changed the representative of the Arts and Cultural Events Council to Mr. David Wahl.

***Mayor Pro Tem Prickett made a motion to reappoint the members of the SATAX Committee as amended. Councilmember Connelly seconded the motion and was unanimously passed.***

J. Council Committee and Liaison Assignments

***Mayor Pro Tem Prickett made a motion to approve the Organizational Chart and assignments. Councilmember Connelly seconded the motion and was unanimously passed.***

VIII. Town Administrator's Report:

Ms. Tillerson gave an update on the Parkway Landscaping project by stating that the project is progressing with some of the trees being planted. Mr. Gottshalk and Outdoor Spatial Design, the landscape architect, have been monitoring the project anticipated to be completed by the first or second week in February. Delays in completion have been due to additional work on the irrigation system.

Ms. Tillerson stated there had been a long-standing issue with the Sora Rail waste disposal area. There has been a more frequent issue of trash being left on the ground not just during holidays but year-round. Despite signage giving a secondary location, installing cameras, and citations being issued, the issue has not been resolved.

Ms. Tillerson indicated that the Town does not own the land where the compactor and recycle bin are located. There is no room for expansion or to make improvements, and she suggested closing that site and working with the Public Works Committee to possibly move the facility to an alternate location at the Municipal Center location.

Mayor Labriola added that as a matter of health and safety, the issue could not continue. He noted the Municipal Center was designed with an area to expand the garage that can be used to have a monitored, maintained, and controlled facility.

Councilmembers discussed and agreed to support moving forward with the project.

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

- X. Citizens' Comments:**
- None

- XI. Adjournment:**

*Mayor Pro Tem Prickett made a motion to adjourn the meeting at 3:14 pm. Council Member Connelly seconded the motion and was unanimously passed.*

Submitted by,

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Petra S. Reynolds, Town Clerk

Approved by,

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John D. Labriola, Mayor

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Date



Tab | 3

**TOWN COUNCIL**

**Agenda Item**

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

This **CONTRACT SERVICES AGREEMENT FOR PROSECUTING TOWN ATTORNEY SERVICES** (the "Agreement") is effective as of the \_\_\_\_\_ day of January 2021 to December 31, 2021, by and between **Adam Young of Young & Young, Attorneys at Law** (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**

**WHEREAS**, the the Town has retained Joseph C. Wilson, as Town Attorney pursuant to Chapter 2, Section 203(5) of the Municipal Code;

**WHEREAS**, the Town and Mr. Wilson have agreed that the duty of acting as Town prosecutor representing the Town in Municipal Court proceedings, including bench and jury trials, can be handled by separate council with more experience in the area of criminal law and procedure;

**WHEREAS**, Mr. Wilson has recommended and the Town agrees to the retention of Adam Young of Young & Young, Attorneys at Law, to act as the Town's prosecutor in municipal court matters;

**AGREEMENT**

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

**1. APPOINTMENT, SCOPE OF WORK AND DUTIES**

Town Council hereby hires Adam Young of Young & Young, Attorneys at Law, (hereinafter "Attorney") to act as the Town's prosecuting attorney in the Town of Kiawah Municipal Court and, if necessary, to act as the Town's prosecutor in any other court, including Magistrate's Court and the Court of General Sessions. Attorney will provide these services at the request and discretion of Mr. Wilson after consulting with staff and the Town's Municipal Court Judge.

Attorney will personally provide the legal services hereunder with the assistance of Law Firm. Kelley Young of Law Firm may appear for Adam Young from time to time as is necessary due to scheduling issues or illness. In addition, Mr. Wilson will continue to be involved in the prosecution of matters before the Municipal Court or other courts at his discretion, including working with and training staff on the prosecution of matters before Municipal Court. No other attorney will appear on behalf of the Town pursuant to this Contract.

**2. COMPENSATION**

Compensation to Attorney is One Hundred and Fifty Dollars (\$150.00) per hour plus reasonable expenses. Expenses include copy costs, mail, long distance, mileage for outside of the Tri-County area, court filing fees, process server fees, expert witness fees, and expenses, investigation costs, court reporter fees, and travel expenses. 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.

The Law Firm will charge in increments of one-tenth of an hour, rounded off to the nearest one-tenth of an hour. The minimum time charged for work will be one-tenth of an hour. 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.

**3. MONTHLY STATEMENTS**

The Law Firm will prepare and deliver monthly bills setting out the time expended and expenses for the preceding month.

**4. 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.

**5. 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.

**6. 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 Law Firm shall at any time or in any manner represent that it or any of its employees or agents are employees of the Town.

**7. 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 Hundred Thousand Dollars (\$100,000.00) per occurrence and shall provide the Town with proof of such coverage in the form of a Certificate of Insurance on an Annual Basis.

**8. 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.

**9. AMENDMENT**

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

**10. 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.

**11. 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.

**12. 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.

**13. GOVERNING LAW**

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

**14. 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 \_\_\_\_\_ day of January, 2021.



TOWN OF KIAWAH ISLAND

By: \_\_\_\_\_  
John D. Labriola, Mayor

ATTEST:

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

By: \_\_\_\_\_  
Adam Young, Esquire



Tab | 4

**TOWN COUNCIL**

**Agenda Item**



# Request for Ways and Means Committee Action

**TO:** Mayor and Town Council

**FROM:** Jim Jordan

**SUBJECT:** Beach Monitoring Contract - CSE

**DATE:** February 2, 2021

## **BACKGROUND:**

The Town of Kiawah Island (TOKI) has contracted with Coastal Science and Engineering (CSE) to perform beach monitoring and beach project coordination since 2005.

## **ANALYSIS:**

The beach is one of the island's greatest assets and it is important to continue to monitor and document changes over time. CSE provides high-quality work and has a proven track record with the Town. The Town has utilized CSE as its beach engineering firm since 2005.

## **ACTION REQUESTED:**

Staff requests that Town Council approve a 3-year beach monitoring contract with CSE for 2021-2023.

**BUDGET & FINANCIAL DATA:** The annual cost for beach monitoring is \$37,990.00, with a total 3-year cost of \$113,970.00. This 3-year contract would begin in FY 2021-2022. The annual costs for the three prior 3-year contracts are as follows: (2012-2014 - \$29,500), (2015-2017 - \$29,000), (2018-2020 - \$32,500). The increase in the annual cost of the recommended contract is due primarily to an upgrade in equipment by CSE to provide greater resolution during data collection and analysis.

## THE PROPOSAL

[P2539]

### EXHIBIT A

**2021–2023**

#### **Beach Condition and Post-Project Monitoring at Kiawah Island (SC)**

### INTRODUCTION

This proposal is submitted at the request of the Town of Kiawah Island (SC) for annual beach monitoring and post-project environmental monitoring services. The proposed services follow the completion of restoration projects at the east end of the island in 2006 and 2015, associated post-project monitoring from 2006 to 2020.

CSE was retained by the Town to complete annual post-nourishment monitoring of the 2006 and 2015 project areas as well as the downcoast areas of Kiawah Island. Results of the monitoring have been submitted annually to the Town and provide updated beach condition assessments and analyses of shoreline change, including focused discussion of changes occurring at the dynamic east end. Annual monitoring of developed beaches is considered an essential aspect of coastal community management, and aids in areas of damage prevention, recovery, and planning.

The present proposal covers the following engineering services required to provide three years of updated condition assessments for Kiawah Island's beach similar to recent monitoring efforts. This proposal does not include services that would be necessary should another channel realignment project be necessary. Proposed work includes:

- Annual surveys of the oceanfront including ~60 profile lines
- Annual reports documenting beach volume changes and project performance
- Annual oblique aerial image surveys

### BASIC SERVICES

References to the “Engineer” and/or “Consultant” in the scope of services are to CSE as the project manager responsible to the Town for the execution of the services proposed. Execution of the services by CSE includes completion of work as required to execute all aspects of the scope of services. References to the “Town” refer to the Town of Kiawah Island, a South Carolina municipality.

## SCOPE OF SERVICES

The scope of services proposed herein represents the basic services and is based on CSE's work to date for the Town, experience on similar projects and project components, the scope of the project as defined by this proposal, and the regulatory requirements of agencies of the state of South Carolina and the federal government with jurisdiction over construction at the site. The following scope of services is proposed.

### **Task 1.0 Planning, Communication, and Liaison**

The planning task of the project will include coordination and meetings with Town representatives to:

- Review the final plan
- Develop schedules
- Participate in public forums
- Provide liaison with government agencies following annual surveys
- Assist the Town with communication and liaison
- Coordinate with permitting agencies for compliance

Following authorization to proceed with the proposed scope of services:

- 1.1 CSE will discuss with Town representative(s) to clearly define the goals and objectives for the work.
- 1.2 CSE will work with the Town to schedule monitoring surveys at a time which will not impact public events, etc. CSE will coordinate with public safety officials regarding beach access and near-shore hydrographic work.
- 1.2 CSE will assist the Town in preparing annual summaries including display graphics for distribution to officials and the public by way of various mediums, including web sites, newspapers, or Town newsletters.



**Task 2.0 Annual Beach Condition Survey**

This task of the project will include condition surveys of the beach, and inshore zone [to approximately –12 foot (ft) depths]. These surveys will supplement previous field data by CSE and will be used for volume change analysis using similar reaches and boundaries as recent reports. The surveys can also satisfy the annual monitoring requirement of project permits should another project be completed within the timeframe of the agreement, as the required monitoring area was established to match stations regularly monitored under the annual program (from the Beach Club to the eastern lagoon).

CSE will conduct annual condition surveys of the beach between Captain Sams Inlet and Penny's Creek (Stono Inlet). The Engineer will reoccupy profile lines established under the prior monitoring agreement (approximately 60 lines between OCRM station 2615 and OCRM station 2730) and will obtain cross-sections from the foredune to approximately –12-ft depth contour, or at least 1,500 ft from the baseline. This survey will be compared with prior surveys and will document volume changes in the project area and downcoast areas.

Surveys will be conducted around October each year to coincide with previous shoreline assessments and to allow for same-season comparisons with surveys conducted under the previous agreement. The survey will be completed using an RTK-GPS (Trimble™ Model R10-GNSS) for data collection. The offshore work will be performed using the Trimble™ linked to an Odom™ CV100 precision survey fathometer for direct measurements of the bottom without the need for tide corrections. Measurements over subaerial portions of Kiawah Island will extend to low-tide wading depth. Offshore profiles will be collected at 1–10 Hz but will be filtered in the office to eliminate spikes and provide a 5–7 point floating average. Smoothed offshore data will be edited to a manageable size and merged with subaerial data.

Field data will be entered into CSE's beach profile analysis system (BPAS) and combined with historic profile data. Each profile will be checked for proper juxtaposition with previous surveys. Changes between the present survey and selected earlier surveys will be computed (similar to previous profile change analyses for the Town by CSE). Overall volume changes by reach will be computed by extrapolating unit-volume changes over representative shore lengths. CSE will evaluate the net direction and rate of sand transport to downcoast and upcoast reaches and will identify developing erosion trends where applicable. Changes occurring within the project area will be identified and CSE will discuss the project performance and condition of the closure dike and inlet.

The results of the survey will be presented in an annual report with graphics that illustrate the physical changes and place them in context. Annual reports will be submitted to regulatory and resource agencies to comply with project permits.



### **3.0 Aerial Photography**

Oblique aerial imagery will be collected off of the beach and shoals at low tide annually. Imagery will be used to offer visual depictions of the beach condition, dune condition, and shoal locations. Imagery will be placed side by side with historical images to offer easy-to-see comparisons of the present beach condition with historical conditions.

### **4.0 Annual Report**

CSE will assemble the results of each annual monitoring effort into a comprehensive technical report, similar to monitoring reports provided to the Town under the previous monitoring contract. Reports will document beach volume changes and dune condition and will identify potential concerns. Changes occurring in the project area will be described, and erosional hot spots will be identified. At the discretion of the Town, CSE will present findings of the annual monitoring to Town officials, the community, and/or resource agency officials at a schedule determined by the Town (one presentation in Kiawah/Charleston is assumed each year). [Note: CSE will also meet with owner's representatives at other times during each year around the time of field deployments and/or other times as opportunities occur.]

**ADDITIONAL SERVICES**

The work described in the scope of services (Task 1.0 through Task 4.0) does not include work in the following categories. Work in these categories or other services requested by the Town will be considered Additional Services.

If the Town wishes CSE to perform any of the following Additional Services, the Town shall so instruct CSE in writing and the Engineer will perform or obtain from others such services and will be paid therefore as provided in the Agreement for Services between the Town and the Engineer for Professional Services.

- Services resulting from significant changes in the general scope, extent or character of the project, or major changes in the documentation previously accepted by the Town where changes are due to causes beyond CSE's control.
- Providing renderings or models outside of what is presented in Tasks 1–4.
- Detailed consideration of operations, maintenance and overhead expenses; value engineering; and the preparation of rate schedules, earnings and expense statements, cash flow and economic evaluations, feasibility studies, appraisals, and valuations.
- Furnishing the services of environmental scientists, biologists, fisheries scientists, chemical analysis laboratories, or other specialized scientific testing, evaluations, or services not specifically included in the scope of services.
- Geotechnical engineering studies including sediment sampling, borings, and reports not specifically included in the scope of services.
- Preparing to serve or serving as a consultant or witness in any litigation, arbitration, or other legal or administrative proceedings except where required by the scope of services.
- Services of the independent cost estimator shall be Additional Services.

**PROJECT SCHEDULE**

The schedule is based on a start date of August 2021 for the services proposed herein. The schedule may be modified at the direction of the Town. An anticipated schedule is provided below.

<b>Date</b>	<b>Task#</b>	<b>Description</b>
August 2021	1	Initiate work under present proposal/finalize plan with the Town
Oct 2021	2	Condition Survey
Nov-Dec 2021	3	Oblique Aerial Imagery
Feb 2022	4	2021 report – End of Year 1 Services
Oct 2022	2	Condition survey
Nov-Dec 2022	3	Oblique Aerial Imagery
Feb 2023	4	2022 report – End of Year 2 Services
Oct 2023	2	Condition survey
Nov-Dec 2023	3	Oblique Aerial Imagery
Feb 2023	4	2023 report – End of Year 3 Services

**PROPOSED BUDGET**

Table A provides an itemized budget estimate for CSE’s services for Tasks 1–4 as outlined herein. CSE agrees to perform the services on a time-and-expense basis according to the enclosed fee schedule. CSE prefers to enter into a multi-year agreement; however, should the Town need to commit to services on a year-by-year case, the budget described below will be applied on a per-year basis. Reimbursables will be billed at cost.

CSE reserves the right to request a modification in the budget in the event the budget estimates significantly underestimate the professional time requirements. Should the Town require additional services, CSE will provide a quote prior to performing the work. CSE will endeavor to provide services as efficiently as possible while meeting the standards of professional practice required for the project.

**Table A.** Proposed fees and reimbursable expenses for services under Tasks 1–4. [Aggregate totals for three years followed by estimated annual costs.]

<b>Task #</b>	<b>Task Description</b>	<b>Task Fee</b>
1	Planning, Communication, Liaison	\$23,640
2	Annual Beach Condition Survey (3)	\$29,040
3	Aerial Photography (3 oblique)	\$6,720
4	Annual Report (3)	\$32,160
1-4	Labor Subtotal - Tasks 1-4	\$91,560
	In Office Expenses - Tasks 1-4	\$4,578
	Direct Expenses - Tasks 1-4	\$17,832
	<b>Total Project Tasks 1–4 (3 years)</b>	<b>\$113,970</b>
	<i>Cost of Annual Services for Each Year</i>	<i>\$37,990</i>



**FEE SCHEDULE***[Effective through 31 January 2022]*

The fee for CSE services will be based on the charges listed below. All fee quotations are estimates, and actual fees are based on actual time and expenses incurred by CSE unless otherwise stated in the proposal. All rates are listed in U.S. dollars.

Fees by task are based on estimated numbers of person-days to accomplish the scope of services detailed herein. In-office expenses include communication, copying, insurance (etc) and are charged as a percentage of fees rather than separate itemization. Direct expenses include travel (standard U.S. government mileage rate), lodging and per diem, 4-by-4 beach vehicle rental at \$120/day, survey boat rental at \$500/day, RTK-GPS rental at \$400/day, fuel and dockage at cost, sediment testing at \$60/sample, and field supplies at cost.

<b>PERSONNEL</b>	<b>Staff Category</b>	<b>Hourly Rate</b>
	Principal	140.00
	Coastal Engineer/Project Manager	120.00
	Sr Technical Associate/Coastal Scientist	90.00
	Technical Staff (CAD)	80.00
	Tech-Field Assistants	60.00

**Type of Contract Desired:** Time and expense for the services described herein at a total not to exceed one hundred thirteen thousand, nine hundred and seventy dollars (\$113,970) for Tasks 1–4 over three years.

**Billing Schedule:** CSE will invoice monthly for services performed the prior month with an itemization of direct expenses. Invoices will be pro-rated according to fees and expenses inside and outside the project limits. CSE reserves the right to transfer funds between tasks so as to accomplish the work in an expeditious manner, provided the total cost of services does not exceed the indicated budget.



Tab | 5

**TOWN COUNCIL**

**Agenda Item**





# Request for Town Council Approval

**TO:** Mayor and Members of Town Council

**FROM:** Brian Gottshalk, Public Works Manager

**SUBJECT:** Request to Extend Island Beach Services Contract as Amended

**DATE:** 2 February, 2021

## **BACKGROUND:**

Beach Patrol is instrumental in making sure that the beach is kept clean and safe year round. Members of the beach patrol are present daily to enforce Town ordinances, educate guests on the island's history and wildlife, and to keep a watchful eye on residents and guests partaking in beach and water activities. The current contractor, Island Beach Services, LLC has had a contract with The Town since October 2009, with the last contract renewal being awarded in February, 2017.

## **ANALYSIS:**

Island Beach Services, LLC has fulfilled the three (3) year contract extension along with the first one (1) year contract extension that expires February 6, 2021. Island Beach Services, LLC seeks to be awarded the second one (1) year extension to the contract to expire February 6, 2022. Further, Island Beach Services, LLC wishes to have the extension awarded with amendments made discussed with Town staff. These amendments include deferring the responsibility to purchase and outfit their staff with the required Automatic External Defibrillators (AEDs). With the responsibility being put on the contractor, the contract sum will be amended to reflect this change. The contract sum would increase by \$11,842.85 (\$2,368.57 per unit for five (5) units).

## **ACTION REQUESTED:**

Town Staff requests that Town Council approve the contract extension for Island Beach Service, LLC as amended.

## **BUDGET & FINANCIAL DATA:**

If approved, the current contract sum with Island Beach Services, LLC would increase by \$11,842.85.

STATE OF SOUTH CAROLINA     )  
  )  
COUNTY OF CHARLESTON     )  
  )  
  )  
\_\_\_\_\_)

**AMENDMENT TO  
AGREEMENT BETWEEN THE  
TOWN OF KIAWAH ISLAND  
AND  
ISLAND BEACH SERVICES, LLC dba  
BARRIER ISLAND OCEAN RESCUE**

**WHEREAS**, the Town of Kiawah Island and Island Beach Services, LLC dba **Barrier Island Ocean Rescue** entered into an agreement on **February 4, 2020** for the purpose of providing Beach Patrol services.

**WHEREAS**, the Town and Island Beach Services wish to amend said agreement in the following particulars:

1.     **TERM:** This agreement shall be extended for an additional one-year term commencing on February 7, 2021 and expiring on February 6, 2022.
2.     **AGREEMENT AMOUNT:** The agreement amount shall be amended to Three hundred thirty-two thousand six hundred seven dollars (\$332,607.00) per annum.
3.     **SCOPE OF WORK:** Item F shall be amended as follows: Automated External Defibrillators (AEDs) will be supplied and maintained by the Contractor
4.     **EFFECTIVE DATE:** This agreement shall be effective on February 7, 2021.

All other provisions of the agreement entered into on February 4, 2020 remain in full force and effect.

**IN WITNESS WHEREOF**, the parties hereto have executed this Amendment this 2<sup>nd</sup> day of February 2021.

**WITNESSES**

**Town of Kiawah Island**

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
By:     John A. Labriola  
Its:     Mayor

**Island Beach Services**

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
By:     Robert N. Edgerton  
Its:     Owner



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**TOWN COUNCIL**

**Agenda Item**



# Request for Town Council Approval

**TO:** Ways and Means Chairman and Committee Members

**FROM:** Brian Gottshalk, Public Works Manager

**SUBJECT:** Request to Extend Tidal Trails Franchise Agreement

**DATE:** 2 February, 2021

**BACKGROUND:**

Outdoor sports and activities are a big attraction for residents and guests on Kiawah Island. There is an abundance of opportunity to enjoy and explore the river, ocean, and creeks with surfboards, kayaks, and floats. Stemming from their parent company Watersports Unlimited, LLC, Tidal Trails is a company with whom The Town has a franchise agreement to allow the rental of such equipment to guests and residents.

**ANALYSIS:**

Tidal Trails has requested to enter into the second one (1) year extension of their contract that currently terminates on February 6th, 2021. There is no request to amend any part of the agreement.

**ACTION REQUESTED:**

Town Staff requests that Town Council approve of the extension to the Tidal Trails franchise agreement.

**BUDGET & FINANCIAL DATA:**

There is no change in budget or financial data. The Town will continue to receive payment for the annual business license renewal and for the agreed upon annual franchise fee of \$100.00.

STATE OF SOUTH CAROLINA )  
)  
COUNTY OF CHARLESTON )  
)  
\_\_\_\_\_ )

**AMENDMENT TO THE  
FRANCHISE AGREEMENT BETWEEN  
THE TOWN OF KIAWAH ISLAND  
AND  
WATERSPORTS UNLIMITED. LLC. dba TIDAL TRAILS**

**WHEREAS**, the Town of Kiawah Island and Watersports Unlimited. LLC. dba Tidal Trails entered into a non-exclusive franchise agreement on **February 17, 2017** for the purpose of certain commercial activities, specifically, the leasing of Floats/Body Boards, Surfboards, Sea Kayaks, and Sit-on-top Kayaks in front of the Sandcastle Community Center (Property owners Pool)

**WHEREAS**, the Town and Watersports Unlimited. LLC. dba Tidal Trails wish to amend said agreement in the following particulars:

1. **TERM:** This agreement shall be extended for an additional one-year term commencing on February 8, 2021 and expiring on February 7, 2022.
2. **EFFECTIVE DATE:** This agreement shall be effective on February 8, 2021.

All other provisions of the agreement entered into on **February 7, 2017** shall remain in full force and effect.

**IN WITNESS WHEREOF**, the parties hereto have executed this Amendment this 2<sup>nd</sup> day of February 2021.

**WITNESSES**

**Town of Kiawah Island**

\_\_\_\_\_  
\_\_\_\_\_

By: John D. Labriola  
Its: Mayor

**Watersports Unlimited. LLC.  
dba Tidal Trails**

\_\_\_\_\_  
\_\_\_\_\_

By: Duane Lapp  
Its: Owner



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**TOWN COUNCIL**

**Agenda Item**



# REQUEST FOR TOWN COUNCIL ACTION

**TO:** Mayor and Council Members  
**FROM:** Bruce D. Spicher  
**SUBJECT:** Air purification approval  
**DATE:** February 2, 2021

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## **BACKGROUND:**

The air purification system was approved during a first reading at the December council meeting. However, the vendor promotion we were being offered is no longer available. The new price for the system is **16,744.00**.

## **ANALYSIS:**

The air purification system is a whole building ionization system that removes all airborne contaminants and viruses, including COVID-19. The cost of the system is refundable by the COVID-19 initiative.

## **ACTION REQUESTED:**

Approval for funding the project.

## **BUDGET & FINANCIAL DATA:**

The amount of \$16,744.00 was included in Budget Amendment.





5915 Loftis Rd, Hanahan, SC 29406  
843-747-6700 Fax 843-554-5377  
[www.berkeleyheating.com](http://www.berkeleyheating.com)

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January 13, 2021

Town of Kiawah Island  
4475 Betsy Kerrison Parkway  
Kiawah Island, SC 29455

Re: Air Purification Systems

We will furnish and install the following:

- 21 I-wave ion generators for killing viruses and bacteria.
- All required duct connections, equipment connections and wiring.
- All required labor, manuals, start up, taxes and testing.
- Kiawah Island permit.
- One year parts and labor warranty

**Total Investment: \$16,744.00**

Respectfully submitted,

Accepted\_\_\_\_\_

Gordon Dinger  
President

Date\_\_\_\_\_

Proposal good for 45 days.





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**TOWN COUNCIL**

**Agenda Item**



# Request for Town Council Action

**TO:** Mayor and Members of Town Council

**FROM:** Brian Gottshalk, Public Works Manager

**SUBJECT:** Request to Purchase New Radios for Town Staff and Beach Patrol

**DATE:** 2 February, 2021

## **BACKGROUND:**

Communication is the key to transparency and coordination between team members and other entities. A very efficient way of communicating daily operations and emergency scenarios is through radios. Radios are used daily by Town Staff and Beach Patrol for communication and updates. Beach patrol uses them to receive information from The Town and other entities, and also to carry out their daily operations.

## **ANALYSIS:**

The current radios that are in circulation between The Town and Beach Patrol are between 12 and 15 years old. Not only are they past their peak operating capacity, they are not serviceable for repairs. This means that when a radio breaks, that is one less radio that is in circulation. There have been two radios that have gone out of commission since the beginning of the summer.

After initial discussion at the Ways and Means Committee meeting last October, the committee asked that there be further vetting and confirmation on the radio type, capabilities, and quantity. For the type and capabilities, the Radio Communications Manager for Charleston County confirms his recommendation that these radios will meet the needs of Town Staff and Beach Patrol. These radios will be able to receive traffic from dispatch as well as communicate with Kiawah and County entities on the Kiawah Incident Channel. To purchase radios with the extra level of encryption would give The Town access to a Sheriff's Office channel on which The Town is not authorized to communicate.

Since the last radio purchase, Beach Patrol has expanded their staffing and number of patrol units on the beach. As for the request to purchase ten (10) radios for Beach Patrol, the radio designation is as follows:

5 Radios- One for each patrol unit on the beach during peak season

2 Radios- One for each of the owners, Rob Edgerton and Michael Sosnowski

3 Radios-One for each supervisor to have at all times, to include the medical doctor on staff

The unit price for the Town Staff radios is \$2,381.19 which brings to total to \$5,078.88 after adding the batteries and charging stations for two (2) radios.

The unit price for the Beach Patrol radios is \$4,709.52 Which brings the total to \$54,220.20 after adding batteries, lapel adapters, and charging stations for ten (10) radios.

After the programming fee and estimated tax, to total comes out to approximately \$66,491.68.

**ACTION REQUESTED:**

Town Staff requests that Town Council approve the purchase of twelve (12) new radios for certain members of Town Staff and Beach Patrol.

**BUDGET & FINANCIAL DATA:**

The Beach Patrol radios are able to be purchased through the Local Accommodations Tax fund and the Town Staff radios would be purchased through the General Fund.

**MOTOROLA SOLUTIONS****Quote Number: QU0000515467****Effective: 22 OCT 2020****Effective To: 13 MAR 2021****Bill-To:**

KIAWAH ISLAND, TOWN OF  
 4475 BETSY KERRISON PKWY  
 JOHNS ISLAND, SC 29455  
 United States

**Ultimate Destination:**

KIAWAH ISLAND, TOWN OF  
 4475 BETSY KERRISON PKWY  
 JOHNS ISLAND, SC 29455  
 United States

**Attention:****Name:** Brian Gottshalk**Phone:** (843) 768-9166**Sales Contact:****Name:** Wes Porter MR**Email:** wesporter@callmc.com**Phone:** 8437443780**Contract Number:** SC contract 4400021163**Freight terms:** FOB Destination**Payment terms:** Net 30 Due

Item	Quantity	Nomenclature	Description	List price	Your price	Extended Price
1	2	H92UCF9PW6AN	APX 900 7/800 MHZ MODEL 2 PORTABLE	\$3,265.00	\$2,381.19	\$4,762.38
1a	2	G996AZ	ADD: PROGRAMMING OVER P25 (OTAP)			
1b	2	QA03399AB	ADD: ENHANCED DATA			
1c	2	QA09008AA	ADD: GROUP SERVICES			
1d	2	QA06765AA	ALT: IMPRESS LI-ION 3000MAH			
1e	2	QA04096AA	ENH: P25 TRUNKING			
1f	2	Q667BB	ADD: ADP ONLY (NON-P25 CAP COMPLIANT) (US ONLY)	-	-	-
1g	2	H885BK	ADD: 3Y ESSENTIAL SERVICE			
2	2	PMNN4493A	BATT IMPRES LIION HE DENS IP68 3000T	\$135.00	\$101.25	\$202.50
3	2	PMPN4174A	CHGR DESKTOP SINGLE UNIT IMPRES, US/NA	\$76.00	\$57.00	\$114.00
4	10	H98UCF9PW6BN	APX6000 700/800 MODEL 2.5 PORTABLE	\$6,506.00	\$4,709.52	\$47,095.20
4a	10	H38BT	ADD: SMARTZONE OPERATION			
4b	10	Q361AR	ADD: P25 9600 BAUD TRUNKING			
4c	10	Q806BM	ADD: ASTRO DIGITAL CAI OPERATION			
4d	10	G996AU	ADD: PROGRAMMING OVER P25 (OTAP)			
4e	10	QA03399AA	ADD: ENHANCED DATA			
4f	10	QA09006AA	ADD: ADAPTIVE NOISE SUPPRESSION			
4g	10	QA09008AA	ADD: GROUP SERVICES			
4h	10	Q667BB	ADD: ADP ONLY (NON-P25 CAP COMPLIANT) (US ONLY)	-	-	-
4i	10	H885BK	ADD: 3Y ESSENTIAL SERVICE			
4j	10	QA02006AA	ENH: APX6000XE RUGGED RADIO			
4k	10	QA01427AB	ALT: IMPACT GREEN HOUSING			
5	10	NNTN8860A	CHARGER, SINGLE-UNIT, IMPRES 2, 3A, 115VAC, US/NA	\$165.00	\$123.75	\$1,237.50
6	10	PMMN4106D	AUDIO ACCESSORY-REMOTE SPEAKER MICROPHONE,AUDIO ACCESSORY-AUDIO ADAPTER,APX XES00 REMOTE SPEAKER MIC, HIGH IMPACT GREEN	\$616.00	\$462.00	\$4,620.00
7	10	PMNN4547A	BATT IMPRES 2 LIION TIA4950 R IP68 3100T	\$169.00	\$126.75	\$1,267.50
8	12	HKVN4820A	3YR PREPAID DMS ADVANCE RM SUBSCRIPTION	-	-	-

Item	Quantity	Nomenclature	Description	List price	Your price	Extended Price
9	12	HKVN4821A	3YR PREPAID DMS ADVANCE RM LICENSE	\$96.00	\$96.00	\$1,152.00
10	600	SVC03SVC0115D	SUBSCRIBER PROGRAMMING	\$1.00	\$1.00	\$600.00
(Notes)SUBSCRIBER PROGRAMMING						

Estimated Tax Amount	\$5,440.60
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<b>Total Quote in USD</b>	<b>\$66,491.68</b>
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PO Issued to Motorola Solutions Inc. must:

- >Be a valid Purchase Order (PO)/Contract/Notice to Proceed on Company Letterhead. Note: Purchase Requisitions cannot be accepted
- >Have a PO Number/Contract Number & Date
- >Identify "Motorola Solutions Inc." as the Vendor
- >Have Payment Terms or Contract Number
- >Be issued in the Legal Entity's Name
- >Include a Bill-To Address with a Contact Name and Phone Number
- >Include a Ship-To Address with a Contact Name and Phone Number
- >Include an Ultimate Address (only if different than the Ship-To)
- >Be Greater than or Equal to the Value of the Order
- >Be in a Non-Editable Format
- >Identify Tax Exemption Status (where applicable)
- >Include a Signature (as Required)



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**TOWN COUNCIL**

**Agenda Item**





**Mayor**

John D. Labriola

**Council Members**

Maryanne Connelly

John Moffitt

Scott Parker

Dan Prickett

**Town Administrator**

Stephanie Monroe Tillerson

## MEMORANDUM

**TO:** Mayor and Town Council Members

**FROM:** John Taylor, Jr., Planning Director

**DATE:** January 28, 2021

**SUBJECT: ORDINANCE 2021-01 | Zoning Ordinance Text Amendment**

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The request before Council is to amend the Town of Kiawah Island Land Use and Planning Ordinance Sec. 12- 374 *Definitions*. to establish a new term, *Base Building Height Elevation (BBHE)* and revise the definition of the existing term *Building Height*.

Through the adoption of the new FEMA Maps, staff examined potential adverse impacts to homes. As a result of the new FEMA Maps having lower elevations across the island, inconsistent roof heights would now be created and the ability to park below a structure would be compromised. Base flood elevations for the new maps have been lowered from a range of one to five feet across the island. This idea is also contrary to Kiawah resiliency efforts as well as Flood Mitigation and Sea Level Rise data the Town has explored. With lower elevations, many homeowners would lose the ability to park underneath their home and lose ceiling heights within a home.

To avoid site specific height variances, which would be a burden to both property owners and town staff due to the increase in permitting timeline, staff recommended creating a new baseline designation for height to preserve the existing roof heights lines and allow parking under structures. With approval of this recommendation, the existing building height definition would be modified to now be centered on a new term (*Base Building Height Elevation, BBHE*). This new term retains the base flood elevation numerical value of the Flood Insurance Rate Maps dated November 17, 2004.

This zoning text amendment request would not impact FEMA insurance requirements or construction practices. This recommendation was tested and supported by the Kiawah Island Architectural Review Board among stakeholders of Kiawah design and development community. This new designation was presented to Planning Commission for consideration on January 6, 2021, where the Planning Commission recommended approval by a vote of 5 to 0.

**Town of Kiawah Island Zoning Ordinance Amendment Request**  
**Case AZO20-000001 History**

**Planning Commission Meeting: January 6, 2021**  
**Public Hearing and First Reading: February 2, 2021**  
**Second Reading: TBD**

**CASE INFORMATION**

Applicant/Owner: Town of Kiawah Island

Application:

The Town is requesting to amend the Town of Kiawah Island Land Use and Planning Ordinance Sec. 12-374 *Definitions*. to establish a new term, *Building Base Height Elevation (BBHE)* and revise the definition of the existing term *Building Height*.

The *Ordinance* defines "Base Flood Elevation (BFE)" as *"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."*

The *Ordinance* defines "Building Height" as *"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."*

The Federal Emergency Management Agency (FEMA) released new flood maps which are scheduled to become effective on January 29, 2021. With a net change reducing base flood elevations across the island averaging approximately three feet and five feet in some areas, lower building heights are an unintended consequence and challenge for homeowners and design teams. The lowering of base flood elevations creates challenges for homeowners by restricting the ability to utilize the ground level of a structure for parking. Additionally, the consistency of existing roof lines for neighborhoods would be impacted across the island where base flood elevations are lowered.

This request is a zoning amendment pertaining to building height and does not change the Town's one-foot freeboard requirement or adjust FEMA requirements for building standards.

Elevations for the proposed amendment will be determined without respect to the flood zone classification and shall only rely on the numeric elevation value expressed within the parenthesis found on the Flood Insurance Rate Maps dated November 17, 2004.

Furthermore, this recommendation provides relief to the development process timeline and to planning staff and Board of Zoning Appeals in preventing the requirement of design teams and homeowners requesting site-specific height variances for new construction with desires to maintain consistency to existing



neighborhood roof lines.

Town staff has met with the Kiawah Island Architectural Review Board and others to discuss these impacts and this modified interpretation of building height has received support.

**\*New Term: Base Building Height Elevation (BBHE)**

*Base Building Height Elevation (BBHE)* means the elevation using the NGVD29 Datum as shown on the Charleston County, South Carolina Flood Insurance Rate Map with an effective date of November 17, 2004. Such elevations will be determined without respect to the flood zone classification and shall only rely on those numerals expressed within the parenthesis found on the Flood Insurance Rate Maps dated November 17, 2004.

**\*Revised Term: Building Height**

*"Building height means the vertical distance between the ~~Base Building Height Elevation (BBHE)~~~~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."*

**RECOMMENDATION BY THE PLANNING COMMISSION**

Pursuant to §12-158(3) of the *Land Use Planning and Zoning Ordinance* "The Planning Commission shall review the proposed text amendment and/or zoning map amendment and take action, recommending that the Town Council approve or deny the proposed amendment. The Planning Commission may hold a public hearing in accordance with the procedures in section 12-156. The Planning Commission's recommendation shall be based on the approval criteria of subsection (6) of this section. The Planning Commission shall submit its recommendation to the Town Council within 30 working days of the Planning Commission meeting at which the amendment was introduced. A simple majority vote of Planning Commission members present, and voting shall be required to approve the amendment."

**DECISION ON AMENDMENT BY THE TOWN COUNCIL**

Pursuant to §12-158(5) of the *Land Use Planning and Zoning Ordinance* "After receiving the recommendation of the Planning Commission, the Town Council shall hold one or more public hearings, and any time after the close of the public hearing, take action to approve, approve with modifications, or deny the proposed amendment based on the approval criteria of subsection (6) of this section. A simple majority vote of Town Council members present, and voting shall be required to approve the amendment. Zoning map amendments shall not be approved with conditions. Prior to action on a proposed code text amendment, the Town Council may, in the exercise of its legislative discretion, invoke the "pending ordinance doctrine" by ordinance so that no building permits shall be issued for structures which would be affected by the proposed amendment until the Town Council has rendered its decision on the proposed amendment.

### **APPROVAL CRITERIA AND APPLICANT'S RESPONSE**

Pursuant to §12-158(6) of the *Land Use Planning and Zoning Ordinance*, (6) Approval criteria. Text and zoning map amendments to the ordinance may be approved if the following approval criteria have been met:

- a. **The proposed amendment is consistent with the purposes and intent of the adopted Town of Kiawah Island Comprehensive Plan;**

Whereas the Comprehensive Plan Housing Element Goal 1 states "*Encourage development of a diversity of housing stock, types and styles that meet different needs of the population*" and Implementation Strategy a. states "*provide mechanisms to permit flexibility and innovation in residential project design to promote land use efficiency and environmental protection.*" the proposed amendment is consistent with the purposes and intent of the Kiawah Island Comprehensive Plan

- b. **The proposed amendment is consistent with the purposes and intent of this article;**

The proposed amendment does not change the purposes and the intent of this article as height restrictions are still maintained with the interpretations of measuring height in both feet and stories.

- c. **The purpose of the proposed amendment is to further the general health, safety and welfare of the Town of Kiawah Island;**

The proposed amendment also provide consistency with resiliency strategies of the Town and would result in higher structures where base flood elevations have been lowered by the new FEMA flood maps.

- d. **The proposed amendment corrects an error or inconsistency or meets the challenge of a changed condition.**

The proposed text amendment provides relief to the extension of the development process timeline and to planning staff and the Board of Zoning Appeals in preventing the requirement of design teams and homeowners requesting a site specific height variance for every new construction with desires to maintain consistency of existing roof lines.

### **PLANNING COMMISSION MEETING**

Notifications: Notice of this meeting has been published and posted in accordance with the Freedom of Information Act and the requirements of the Town of Kiawah Island. On January 6, 2021, the Planning Commission recommended approval by a vote of 5 to 0.

# Town of Kiawah Island Town Council

Town of Kiawah Island Municipal Center  
4475 Betsy Kerrison Parkway  
Kiawah Island, SC 29455

February 2, 2021



1

## Town of Kiawah Island Zoning Text Amendment Applications

Planning Commission Meeting: January 6, 2021

**Public Hearing and First Reading: February 2, 2021**

Second Reading: TBD

Notification letters were sent to individuals on the Kiawah/Seabrook Community Interest Group on January 18th.  
Additionally, this request was noticed in the Post & Courier on January 15, 2020.

2



## Application Information

### Zoning District Text Amendment Application

#### Case # AZO20-000001:

Request a text amendment to create a new term "Base Building Height Elevation" and redefine "Building Height" within Section 12-374. Definitions.

Purpose and Intent: The proposed text amendment is intended provide relief to maintain existing building heights as a result of FEMA's new flood insurance rate maps reduction to base flood elevations. This recommendation provides relief to the development process timeline and to planning staff and Board of Zoning Appeals in preventing the requirement of design teams and homeowners requesting site-specific height variances for new construction with desires to maintain consistency to existing neighborhood roof lines.

3

## Proposed Text Amendment #AZO20-000001

### EXISTING TERMS

**"Base Flood Elevation (BFE)"** as *"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."*

**"Building Height"** as *"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."*

4

## Proposed Text Amendment #AZO20-000001

### **\*New Term: Base Building Height Elevation (BBHE)**

*Base Building Height Elevation (BBHE)* means the elevation using the NGVD29 Datum as shown on the Charleston County, South Carolina Flood Insurance Rate Map with an effective date of November 17, 2004. Such elevations will be determined without respect to the flood zone classification and shall only rely on those numerals expressed within the parenthesis found on the Flood Insurance Rate Maps dated November 17, 2004.

5

## Proposed Text Amendment #AZO20-000001

### **\*Revised Term: Building Height**

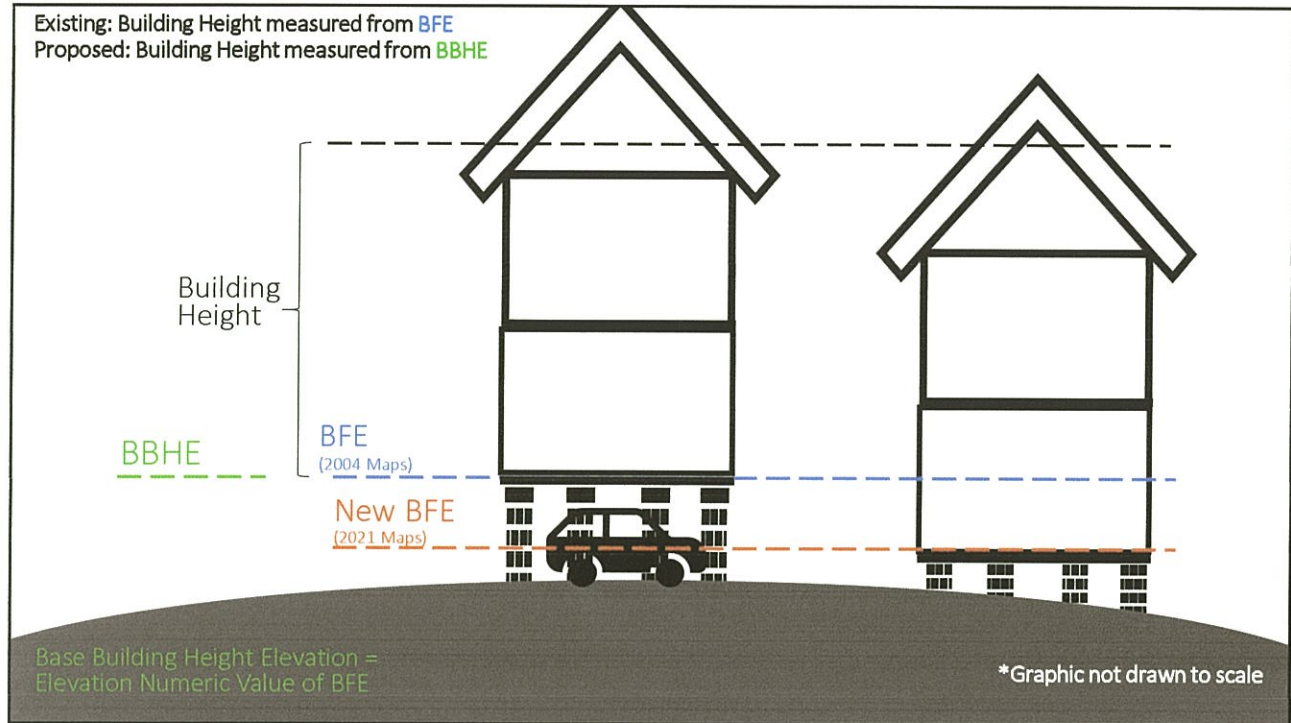
*"Building height means the vertical distance between the ~~base flood elevation (BFE)~~ Base Building Height Elevation (BBHE), or ground level if the structure is not in a flood hazard area as defined by the Federal Emergency Management Agency (FEMA) and is measured in feet and stories. Height in stories 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."*

6

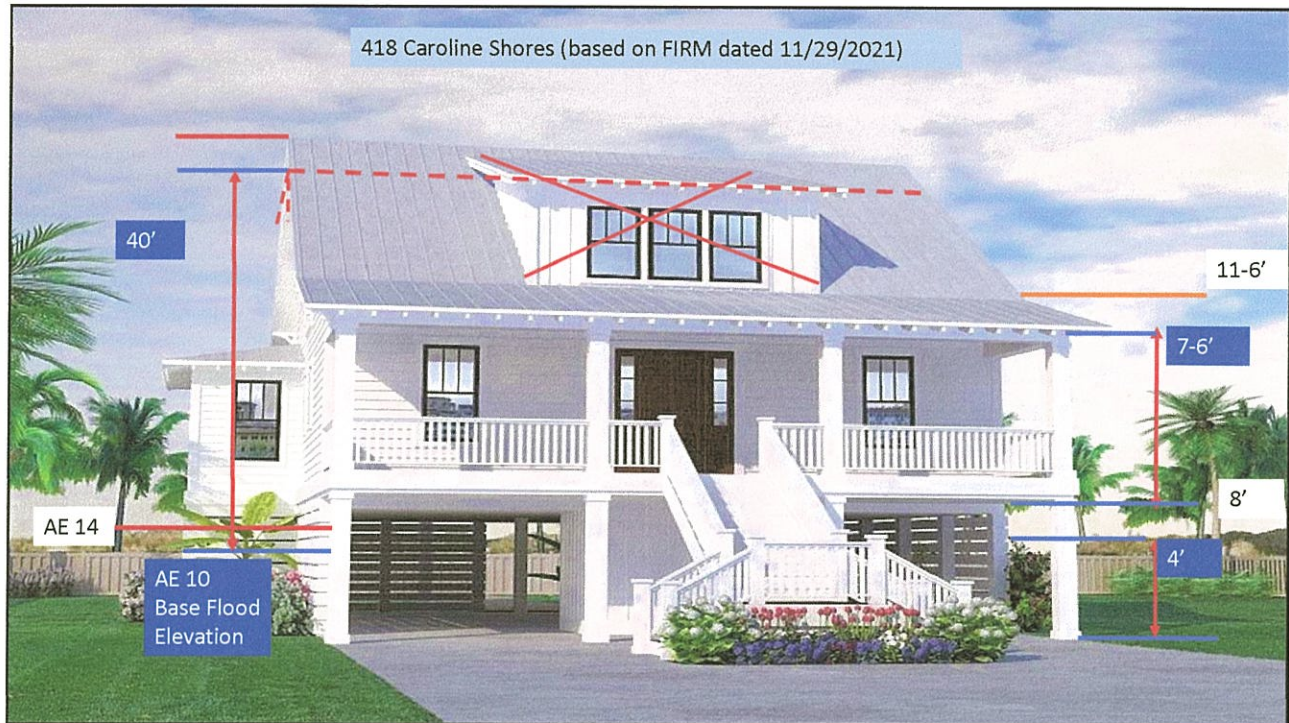




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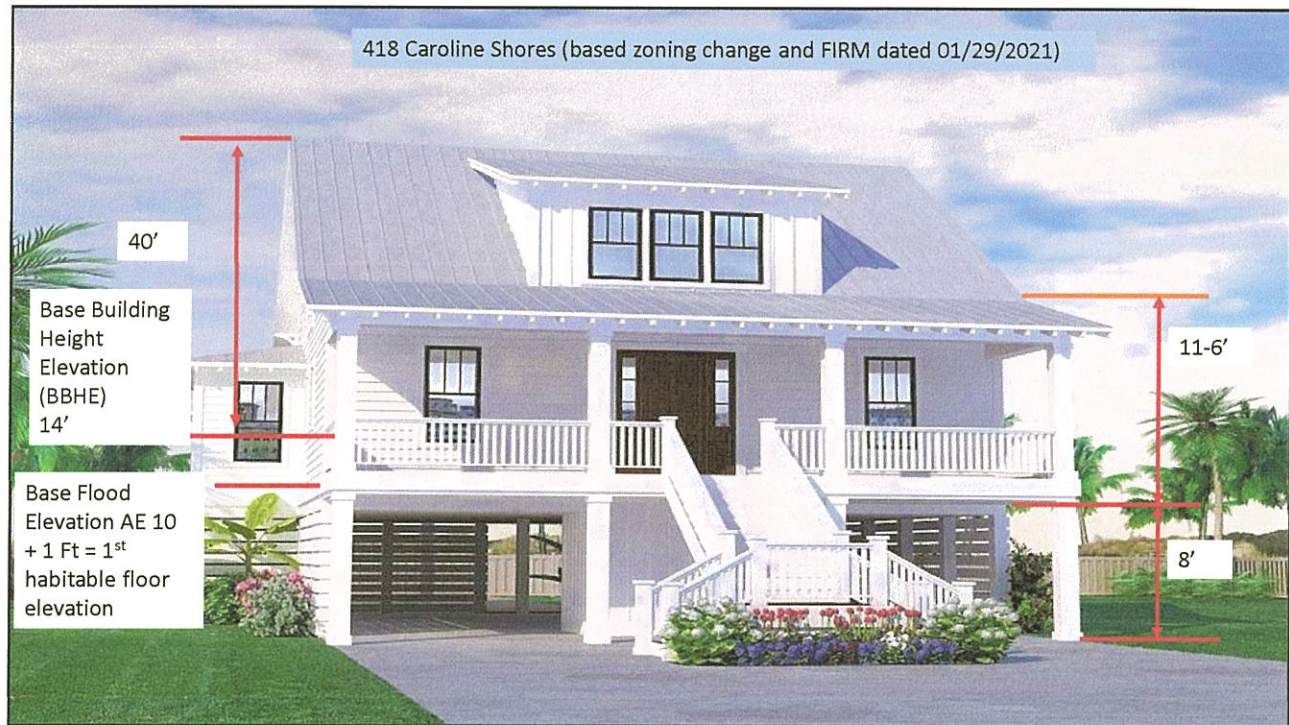
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## Base Building Height Elevation (BBHE)

- Base Building Height Elevation is the elevation using the NGVD 29 Datum as shown on the Flood Insurance Rate Map dated November 17, 2004. Such elevations will be determined without respect to flood zone classification and shall only rely on those numerals expressed within the parenthesis found on the stated map.

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## Zoning Ordinance Text & Map Amendment Applications: Recommendation by the Planning Commission

Section 12-158(3) of the Zoning Ordinance states “The Planning Commission shall review the proposed text amendment and/or zoning map amendment and **take action, recommending that the Town Council approve or deny the proposed amendment.** The Planning Commission may hold a public hearing in accordance with the procedures in section 12-156. **The Planning Commission’s recommendation shall be based on the approval criteria of subsection (6) of this section.** The Planning Commission shall submit its recommendation to the Town Council within 30 working days of the Planning Commission meeting at which the amendment was introduced. **A simple majority vote of the Planning Commission members present and voting shall be required to approve the amendment.”**

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## **Zoning Ordinance Text and Map Amendment Applications: Decision on Amendment by the Town Council**

Section 12-158(5) states "After receiving the recommendation of the Planning Commission, the Town Council shall hold one or more public hearings, and any time after the close of the public hearing, take action to approve, approve with modifications or deny the proposed amendment based on the approval criteria of subsection (6) of this section. A simple majority vote of Town Council members present and voting shall be required to approve the amendment. Zoning map amendments shall not be approved with conditions. Prior to action on a proposed code text amendment, the Town Council may, in the exercise of its legislative discretion, invoke the "pending ordinance doctrine" by ordinance so that no building permits shall be issued for structures which would be affected by the proposed amendment until the Town Council has rendered its decision on the proposed amendment."

TOWN OF KIAWAH ISLAND

**ORDINANCE 2021-01**

**AN ORDINANCE TO AMEND CHAPTER 12 - LAND USE PLANNING AND ZONING - ARTICLE 4 –  
SECTION 12-374 - DEFINITIONS.**

**WHEREAS**, the Town of Kiawah Island Municipal Code currently contains Chapter 12 - Land Use Planning and Zoning; and

**WHEREAS**, the Federal Emergency Management Agency (FEMA) released new flood insurance rate maps, dated January 29, 2021 with a net change reducing base flood elevations across the island ranging from approximately one foot to five feet; and

**WHEREAS**, the lowering of base flood elevations creates challenges for homeowners by establishing inconsistent roof lines and restricts the ability to utilize the ground level of a structure for parking; and

**WHEREAS**, the Town of Kiawah Island now finds that, upon further review, it is in the public interest to establish a new definition term *Building Base Height Elevation (BBHE)* and revise the definition of the existing term *Building Height*; and

**WHEREAS**, the text amendment would be consistent with the purposes and intent of the adopted Comprehensive Plan and would not be detrimental to the public health, safety, and welfare of the Town of Kiawah Island; and

**WHEREAS**, the Planning Commission held a meeting on January 6, 2021, and subsequently voted to recommend approval to Town Council.

**WHEREAS**, Town Council held a Public Hearing on February 2, 2021, providing the public an opportunity to comment on the proposed amendment.

**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 amend the Town of Kiawah Island Municipal Code, Chapter 12 - Land Use Planning and Zoning - Article 4 – Section 12-374 – Definitions.

**Section 2                      Ordinance Amendments**

**Article 4 – Section 12-374 – Definitions shall be amended with the addition of the new definition of *Base Building Height Elevation* as follows:**

*Base Building Height Elevation (BBHE)* means the elevation using the NGVD29 Datum as shown on the Charleston County, South Carolina Flood Insurance Rate Map with an effective date of November 17, 2004. Such elevations will be determined without respect to the flood zone classification and shall only rely on those numerals expressed within the parenthesis found on the Flood Insurance Rate Maps dated November 17, 2004.

**Article 4 – Section 12-374 – Definitions, *Building Height*, shall be amended as follows:**

*Building Height* means the vertical distance between the Base Building Height Elevation (BBHE), 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 ridgeline 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 measuring 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.

**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 upon its enactment by the Town Council for the Town of Kiawah Island.

**PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF KIAWAH ISLAND  
ON THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2021.**

\_\_\_\_\_  
John D. Labriola, Mayor

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

First Reading:

Public Hearing:

Second Reading:



Tab | 10

**TOWN COUNCIL**

**Agenda Item**



TOWN OF KIAWAH ISLAND

## ORDINANCE 2021-02

**AN EMERGENCY ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF KIAWAH ISLAND REGARDING  
FACE COVERINGS, RESTRICTIONS ON RESTAURANTS, ESTABLISHMENTS THAT POSSESS A STATE  
PERMIT TO SELL ALCOHOL, OTHER BUSINESSES AND FACILITIES, AND ESSENTIAL BUSINESSES**

The Town Council of the Town of Kiawah Island, South Carolina, duly assembled, hereby ordains that the following Emergency Ordinance be adopted pursuant to South Carolina Code § 5-7-250:

**WHEREAS**, it is well recognized that SARS-CoV-2, the virus that causes the disease COVID-19, presents a public health concern that requires extraordinary protective measures and vigilance; and

**WHEREAS**, on March 11, 2020, the World Health Organization (WHO) declared COVID-19 a pandemic; and

**WHEREAS**, on March 13, 2020, the President of the United States has declared a National Emergency for the United States and its territories in an effort to reduce the spread of the virus, and that State of Emergency remains in place; and

**WHEREAS**, the Governor of South Carolina declared a State of Emergency on March 13, 2020, to enhance the State's response to the COVID-19 virus's impact on the State, and that State of Emergency remains in place; and

**WHEREAS**, the Mayor of the Town of Kiawah Island declared a State of Emergency within the Town on March 19, 2020, and his proclamation was adopted by Town Council on March 25, 2020, and that State of Emergency remains in place; and

**WHEREAS**, Town Council adopted several versions of a prior Emergency Ordinance in the past three months, but have since lifted most restrictions, although some restrictions on citizens, visitors, and businesses remain in place; and

**WHEREAS**, since the lifting of restrictions, the State, County, and Town has seen a resurgence in the spread of COVID-19; and

**WHEREAS**, citizens and visitors, particularly those visiting commercial businesses within the Town have had a low rate of mask usage and have infrequently engaged in voluntary social distancing and other actions designed to impede the social transmission of the virus; and

**WHEREAS**, the CDC and SCDHEC have repeatedly advised the use of cloth face coverings to slow the spread of COVID-19; and

**WHEREAS**, face coverings can decrease the spread of respiratory droplets from people, and evidence has grown, showing in numerous recent studies that the use of face coverings decreases the spread of COVID-19 within populations; and

**WHEREAS**, taking measures to control outbreaks minimizes the risk to the public, maintains, the health and safety of the Town's residents and visitors, and limits the spread of infection in our communities and within the healthcare delivery system; and

**WHEREAS**, Section 5-7-30 (the “Home Rule Statute”) and Section 5-7-250 of the South Carolina Code of Laws, as well as the Governor’s Executive Orders, all empower Council to enact emergency ordinances affecting life, health, or safety; and

**WHEREAS**, the South Carolina Attorney General on June 24, 2020 has issued an opinion that municipalities are authorized to issue ordinances requiring the public use of masks; and

**WHEREAS**, on ~~November 25~~~~October 2~~, 2020, the Governor issued Executive Order No. 2020-~~673~~ rescinding all prior Executive Orders, other than those declaring a State of Emergency, and declared that voluntary guidelines governing restaurants first established by AccelerateSC were now mandatory. These now mandatory restrictions govern restaurants, other establishments that possess a state permit to sell alcohol, and other businesses, facilities, venues, events, or mass gatherings. Among other things, restaurants must require the wearing of masks, cannot sell alcohol after 11:00 p.m., and must space tables six (6) feet apart. Although Executive Order No. 2020-~~673~~ does not include an occupancy restriction on restaurants, it does explicitly permit municipalities to enact their own emergency ordinances with additional measures applicable to restaurants. See Section 3(F). Thus, the Town has determined that the 50% restriction on restaurant occupancy should remain; and

**WHEREAS**, the Governor’s Executive Order No. 2020-~~763~~ also explicitly authorized municipalities to enact their own emergency ordinances requiring the use of masks in public settings where it is not feasible to maintain six (6) feet of separation from others; and

**WHEREAS**, in light of the foregoing, Town Council of the Town of Kiawah Island deems it proper and necessary to amend its prior emergency ordinance and adopt this emergency ordinance in order to address how the Town and Council will proceed in light of the above emergency;

**NOW, THEREFORE, BE IT, AND IT HEREBY IS, RESOLVED BY THE TOWN COUNCIL FOR THE TOWN OF KIAWAH ISLAND, SOUTH CAROLINA, AS FOLLOWS:**

1. The directives and procedures adopted by the Town’s prior Emergency Ordinances hereby rescinded and replaced by this Emergency Ordinance **except** the following:
  - A. The Mayor’s Proclamation of Emergency, dated March 19, 2020, and Council’s confirmation of same remain in place;
  - B. Town Council members and staff will be authorized during this State of Emergency to attend meetings of Council via teleconference at their discretion;
  - C. The public will not be allowed to attend Council meetings, or any other Town meetings, in person. Meetings will still be broadcast. Measures will be taken to allow the public to submit comments prior to any meeting by emails, which will be included in the public record of the meeting.
  - D. The Town Administrator is authorized to cancel and revoke any special events permits issued prior to the date of this ordinance; and
  - E. The Mayor is authorized to take protective measures for protection of the public health.

#### **MASK REQUIREMENT**

2. “Face Covering” or “mask” shall mean a covering of the nose and mouth that is secured to the head with ties, straps, or loops over the ears or is otherwise wrapped around the lower face. A Face Covering can be made of natural or synthetic fabrics and can be handmade or improvised from other items. A face shield that covers the nose and mouth and extends below the chin shall satisfy the Face Covering requirements of this Order. Medical-grade masks or respirators shall satisfy the Face Covering requirements of this Order; however, according to the latest CDC



guidance, these critical supplies should be reserved for use by healthcare workers and medical first responders.

3. All persons, including employees, entering or waiting to enter any restaurant (including persons waiting to pick up a carryout order), business, club, or association facility must wear a face covering at all times.
4. The following persons are exempted from the Face Covering requirement:
  - A. A child who is two (2) years old or younger or a child whose parent, guardian, or responsible adult has been unable to place the Face Covering safely on the child's face.
  - B. A person who is seeking to communicate with someone who is hearing-impaired in a manner that requires the mouth to be visible.
  - C. A person with a physical, mental, or behavioral health condition or disability (including, but not limited to, any person who has trouble breathing, or is unconscious or incapacitated, or is otherwise unable to put on or remove a Face Covering without assistance) that prevents wearing a Face Covering, provided that a non-employee or visitor who represents that they cannot wear a Face Covering for one or more of these reasons should not be required to produce documentation or any other form of proof of such a condition.
  - D. A person who is actively engaged in eating or drinking or obtaining a service that requires access to or visibility of the face.
  - E. A person who is engaging in strenuous exercise or physical activity.
  - F. A person who is operating or occupying a vehicle alone or with other persons who are members of the same household.
  - G. A person who is voting or assisting with the administration of an election, although wearing a Face Covering is strongly encouraged.
  - H. A person who must remove a Face Covering for purposes of identification or security screening or surveillance.
  - I. A person for whom wearing a Face Covering would create a risk to the health or safety of the person due to their occupation, job function, or work assignment where wearing a Face Covering would be inconsistent with industry safety standards or protocols or federal, state, or local regulations or guidelines.
5. Businesses and restaurants are responsible for enforcing this Emergency Ordinance with regard only to their employees and are subject to the penalties included herein for violations occurring inside or outside of their business by their employees. Businesses and restaurants are required to conspicuously post at each entry and exit a notice in their business visible to customers entering the business, informing customers that the use of Face Coverings by customers and employees is mandated by law. Failure to post such a notice is a violation of this Emergency Ordinance.

#### **ADDITIONAL EMERGENCY RESTRICTIONS**

6. The Town adopts all Emergency Orders as amended issued by the State of South Carolina Governor Henry McMaster related to the coronavirus, including Governor McMaster's Executive Order No. 2020-763.
7. All restaurants and other establishments that possess a state permit to sell alcohol must comply with the Governor's Executive Order No. 2020-63 and shall comply with the following mandatory restrictions:

- A. The sale or consumption of beer, wine, or alcoholic liquor in all restaurants and other establishments that possess a state permit to sell alcohol is prohibited between the hours of 11:00 PM and 10:00 AM. The sale of beer, wine, or alcoholic liquors for off-premises consumption is not covered by this restriction;
- B. Employees and patrons shall be required to wear masks or face coverings;

In addition, pursuant to the authority granted by the Governor's Executive Order No. 2020-763, Section 3(F), the Town also requires that restaurants comply with the following mandatory restrictions:

- A. Diners must be seated six (6) feet away from diners at other tables;
  - B. Restaurants must seat no more than 8 customers per table unless from the same family; and
  - C. Restaurants must not allow standing or congregating in the bar area of restaurant.
8. Per the Governor's Executive Order, other types of businesses, facilities, venues, events or mass gatherings which are permitted to open but are required to implement AccelerateSC guidelines include the following: festivals, parades, concerts, theaters, stadiums, arenas, coliseums, auditoriums, grandstands, amphitheaters, gymnasiums, concert halls, dance, halls, performing arts centers, parks, racetracks, or similarly operated entities. These guidelines include, but are not limited to, the following:
- A. Attendance may not exceed 50% of the certificate of occupancy issued by the fire marshal – or 250 persons – whichever is less;
  - B. Require the wearing of masks for face coverings as a condition of admission or participation;
  - C. Enact social distancing, cleaning and hygiene practices as recommended by AccelerateSC; and
  - D. End the sale of alcohol at 11:00 PM.
9. All essential businesses originally covered by the Governor's Executive Order No. 2020-21, Section 1(I) must comply with occupancy rate, social distancing practices, and sanitations requirements included in the Governor's Executive Order No. 2020-21, Section 1(I), which includes the following restrictions:
- A. Emergency Maximum Occupancy Rate. The business shall limit the number of customers allowed to enter and simultaneously occupy the premises so as not to exceed five (5) customers per 1,000 square feet of retail space, or twenty percent (20%) of the occupancy limit as determined by the fire marshal, whichever is less.
  - B. Social Distancing Practices. The business shall not knowingly allow customers, patrons, or other guests to congregate within six (6) feet of one another, exclusive of family units.
  - C. Sanitation. The business shall implement all reasonable steps to comply with any applicable sanitation guidelines promulgated by the CDC, DHEC, or any other state or federal public health officials.
10. Violators of any other provision contained in this Emergency Ordinance will be subject to a criminal fine of up to \$100.00 plus required statutory assessments. Each day of the infraction shall be considered a separate offense. In addition, any violation may be charged as a criminal infraction with any other relevant criminal penalties contained in the Kiawah Island Municipal Code, or civil or criminal penalties under state law, or federal law, including violations of S.C. Code Section 16-7-10 (Illegal acts during state of emergency), and penalties authorized pursuant to Executive Orders issued by the South Carolina Governor. In addition, the Governor has

authorized cities to seek an injunction, mandamus, or other appropriate legal action in the courts of the State.

11. All net fines (not including assessments or other payments directed elsewhere under State law) paid to the Town for violations of this Emergency Ordinance will be earmarked and donated to a nonprofit or charitable organization to be chosen at a later date.
12. Should any provision, section, paragraph, sentence or word of this Emergency Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, or words of this Emergency Ordinance as hereby adopted shall remain in full force and effect.
13. As provided by S.C. Code § 5-7-250(d), this Ordinance shall expire automatically on ~~March 2~~April 4, 2021 (the "Emergency Term"). Notwithstanding the foregoing, however, Council may rescind or extend the Emergency Term by emergency ordinance for one or more additional terms, each of no more than sixty-one days.

**MOVED, APPROVED AND ADOPTED THIS 2<sup>nd</sup> DAY OF FEBRUARY 2021.**

\_\_\_\_\_  
John D. Labriola, Mayor

**ATTEST:**

By: \_\_\_\_\_  
Petra Reynolds, Town Clerk

1<sup>st</sup> Reading: February 2, 2021

No Second Reading per S.C. Code § 5-7-250



Tab | 11

**TOWN COUNCIL**

**Agenda Item**

TOWN OF KIAWAH ISLAND

**ORDINANCE 2021-03**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF KIAWAH ISLAND REGARDING FACE COVERINGS, RESTRICTIONS ON RESTAURANTS, ESTABLISHMENTS THAT POSSESS A STATE PERMIT TO SELL ALCOHOL, OTHER BUSINESSES AND FACILITIES, AND ESSENTIAL BUSINESSES**

The Town Council of the Town of Kiawah Island, South Carolina, duly assembled, hereby ordains that the following Ordinance be adopted:

**WHEREAS**, it is well recognized that SARS-CoV-2, the virus that causes the disease COVID-19, presents a public health concern that requires extraordinary protective measures and vigilance; and

**WHEREAS**, on March 11, 2020, the World Health Organization (WHO) declared COVID-19 a pandemic; and

**WHEREAS**, on March 13, 2020, the President of the United States has declared a National Emergency for the United States and its territories in an effort to reduce the spread of the virus, and that State of Emergency remains in place; and

**WHEREAS**, the Governor of South Carolina declared a State of Emergency on March 13, 2020, to enhance the State's response to the COVID-19 virus's impact on the State, and that State of Emergency remains in place; and

**WHEREAS**, the Mayor of the Town of Kiawah Island declared a State of Emergency within the Town on March 19, 2020, and his proclamation was adopted by Town Council on March 25, 2020, and that State of Emergency remains in place; and

**WHEREAS**, Town Council adopted several versions of a prior Emergency Ordinance in the past three months, but have since lifted most restrictions, although some restrictions on citizens, visitors, and businesses remain in place; and

**WHEREAS**, since the lifting of restrictions, the State, County, and Town has seen a resurgence in the spread of COVID-19; and

**WHEREAS**, citizens and visitors, particularly those visiting commercial businesses within the Town have had a low rate of mask usage and have infrequently engaged in voluntary social distancing and other actions designed to impede the social transmission of the virus; and

**WHEREAS**, the CDC and SCDHEC have repeatedly advised the use of cloth face coverings to slow the spread of COVID-19; and

**WHEREAS**, face coverings can decrease the spread of respiratory droplets from people, and evidence has grown, showing in numerous recent studies that the use of face coverings decreases the spread of COVID-19 within populations; and

**WHEREAS**, taking measures to control outbreaks minimizes the risk to the public, maintains, the health and safety of the Town's residents and visitors, and limits the spread of infection in our communities and within the healthcare delivery system; and

**WHEREAS**, Section 5-7-30 (the “Home Rule Statute, as well as the Governor’s Executive Orders, empower Council to enact ordinances affecting life, health, or safety and responding to the pandemic; and

**WHEREAS**, the South Carolina Attorney General on June 24, 2020 has issued an opinion that municipalities are authorized to issue ordinances requiring the public use of masks; and

**WHEREAS**, on November 25, 2020, the Governor issued Executive Order No. 2020-73 rescinding all prior Executive Orders, other than those declaring a State of Emergency, and declared that voluntary guidelines governing restaurants first established by AccelerateSC were now mandatory. These now mandatory restrictions govern restaurants, other establishments that possess a state permit to sell alcohol, and other businesses, facilities, venues, events, or mass gatherings. Among other things, restaurants must require the wearing of masks, cannot sell alcohol after 11:00 p.m., and must space tables six (6) feet apart. Although Executive Order No. 2020-73 does not include an occupancy restriction on restaurants, it does explicitly permit municipalities to enact their own emergency ordinances, orders, or other measures applicable to restaurants. See Section 3(F). Thus, the Town has determined that the 50% restriction on restaurant occupancy should remain; and

**WHEREAS**, the Governor’s Executive Order No. 2020-73 also explicitly authorized municipalities to enact their own emergency ordinances, orders, or other measures requiring the use of masks in public settings where it is not feasible to maintain six (6) feet of separation from others; and

**WHEREAS**, the Governor’s most recent Executive Order No. 2021-07 has once again extended the State of Emergency and the outstanding Executive Orders addressing the pandemic, and it appears likely that he shall continue to issue such extensions for the foreseeable future; and

**WHEREAS**, in light of the foregoing, Town Council of the Town of Kiawah Island deems it proper and necessary to adopt a permanent ordinance setting in place restrictions related to the pandemic for a longer period of time, as opposed to an emergency ordinance adopted pursuant to South Carolina Code § 5-7-250;

**NOW, THEREFORE, BE IT, AND IT HEREBY IS, RESOLVED BY THE TOWN COUNCIL FOR THE TOWN OF KIAWAH ISLAND, SOUTH CAROLINA, AS FOLLOWS:**

1. The directives and procedures adopted by the Town’s prior Emergency Ordinances are hereby rescinded and replaced by this Emergency Ordinance **except** the following:
  - A. The most recently adopted Emergency Ordinance No. 2021-02, which shall remain in place until the second reading and final adoption of this Ordinance;
  - B. The Mayor’s Proclamation of Emergency, dated March 19, 2020, and Council’s confirmation of same remain in place;
  - C. Town Council members and staff will be authorized during this State of Emergency to attend meetings of Council via teleconference at their discretion;
  - D. The public will not be allowed to attend Council meetings, or any other Town meetings, in person. Meetings will still be broadcast. Measures will be taken to allow the public to submit comments prior to any meeting by emails, which will be included in the public record of the meeting.
  - E. The Town Administrator is authorized to cancel and revoke any special events permits issued prior to the date of this ordinance; and
  - F. The Mayor is authorized to take protective measures for protection of the public health.

#### **MASK REQUIREMENT**

2. “Face Covering” or “mask” shall mean a covering of the nose and mouth that is secured to the head with ties, straps, or loops over the ears or is otherwise wrapped around the lower face. A

Face Covering can be made of natural or synthetic fabrics and can be handmade or improvised from other items. A face shield that covers the nose and mouth and extends below the chin shall satisfy the Face Covering requirements of this Order. Medical-grade masks or respirators shall satisfy the Face Covering requirements of this Order; however, according to the latest CDC guidance, these critical supplies should be reserved for use by healthcare workers and medical first responders.

3. All persons, including employees, entering or waiting to enter any restaurant (including persons waiting to pick up a carryout order), business, club, or association facility must wear a face covering at all times.
4. The following persons are exempted from the Face Covering requirement:
  - A. A child who is two (2) years old or younger or a child whose parent, guardian, or responsible adult has been unable to place the Face Covering safely on the child's face.
  - B. A person who is seeking to communicate with someone who is hearing-impaired in a manner that requires the mouth to be visible.
  - C. A person with a physical, mental, or behavioral health condition or disability (including, but not limited to, any person who has trouble breathing, or is unconscious or incapacitated, or is otherwise unable to put on or remove a Face Covering without assistance) that prevents wearing a Face Covering, provided that a non-employee or visitor who represents that they cannot wear a Face Covering for one or more of these reasons should not be required to produce documentation or any other form of proof of such a condition.
  - D. A person who is actively engaged in eating or drinking or obtaining a service that requires access to or visibility of the face.
  - E. A person who is engaging in strenuous exercise or physical activity.
  - F. A person who is operating or occupying a vehicle alone or with other persons who are members of the same household.
  - G. A person who is voting or assisting with the administration of an election, although wearing a Face Covering is strongly encouraged.
  - H. A person who must remove a Face Covering for purposes of identification or security screening or surveillance.
  - I. A person for whom wearing a Face Covering would create a risk to the health or safety of the person due to their occupation, job function, or work assignment where wearing a Face Covering would be inconsistent with industry safety standards or protocols or federal, state, or local regulations or guidelines.
5. Businesses and restaurants are responsible for enforcing this Emergency Ordinance with regard only to their employees and are subject to the penalties included herein for violations occurring inside or outside of their business by their employees. Businesses and restaurants are required to conspicuously post at each entry and exit a notice in their business visible to customers entering the business, informing customers that the use of Face Coverings by customers and employees is mandated by law. Failure to post such a notice is a violation of this Emergency Ordinance.

#### **ADDITIONAL EMERGENCY RESTRICTIONS**

6. The Town adopts all Emergency Orders as amended issued by the State of South Carolina Governor Henry McMaster related to the coronavirus, including Governor McMaster's Executive Order No. 2020-73.



7. All restaurants and other establishments that possess a state permit to sell alcohol must comply with the Governor's Executive Order No. 2020-73 and shall comply with the following mandatory restrictions:
  - A. The sale or consumption of beer, wine, or alcoholic liquor in all restaurants and other establishments that possess a state permit to sell alcohol is prohibited between the hours of 11:00 PM and 10:00 AM. The sale of beer, wine, or alcoholic liquors for off-premises consumption is not covered by this restriction;
  - B. Employees and patrons shall be required to wear masks or face coverings;

In addition, pursuant to the authority granted by the Governor's Executive Order No. 2020-73, Section 3(F), the Town also requires that restaurants comply with the following mandatory restrictions:

- A. Diners must be seated six (6) feet away from diners at other tables;
  - B. Restaurants must seat no more than 8 customers per table unless from the same family; and
  - C. Restaurants must not allow standing or congregating in the bar area of restaurant.
8. Per the Governor's Executive Order, other types of businesses, facilities, venues, events or mass gatherings which are permitted to open but are required to implement AccelerateSC guidelines include the following: festivals, parades, concerts, theaters, stadiums, arenas, coliseums, auditoriums, grandstands, amphitheaters, gymnasiums, concert halls, dance, halls, performing arts centers, parks, racetracks, or similarly operated entities. These guidelines include, but are not limited to, the following:
  - A. Attendance may not exceed 50% of the certificate of occupancy issued by the fire marshal – or 250 persons – whichever is less;
  - B. Require the wearing of masks for face coverings as a condition of admission or participation;
  - C. Enact social distancing, cleaning and hygiene practices as recommended by AccelerateSC; and
  - D. End the sale of alcohol at 11:00 PM.
9. All essential businesses originally covered by the Governor's Executive Order No. 2020-21, Section 1(I) must comply with occupancy rate, social distancing practices, and sanitations requirements included in the Governor's Executive Order No. 2020-21, Section 1(I), which includes the following restrictions:
  - A. Emergency Maximum Occupancy Rate. The business shall limit the number of customers allowed to enter and simultaneously occupy the premises so as not to exceed five (5) customers per 1,000 square feet of retail space, or twenty percent (20%) of the occupancy limit as determined by the fire marshal, whichever is less.
  - B. Social Distancing Practices. The business shall not knowingly allow customers, patrons, or other guests to congregate within six (6) feet of one another, exclusive of family units.
  - C. Sanitation. The business shall implement all reasonable steps to comply with any applicable sanitation guidelines promulgated by the CDC, DHEC, or any other state or federal public health officials.
10. Violators of any other provision contained in this Ordinance will be subject to a criminal fine of up to \$100.00 plus required statutory assessments. Each day of the infraction shall be considered a separate offense. In addition, any violation may be charged as a criminal infraction

with any other relevant criminal penalties contained in the Kiawah Island Municipal Code, or civil or criminal penalties under state law, or federal law, including violations of S.C. Code Section 16-7-10 (Illegal acts during state of emergency), and penalties authorized pursuant to Executive Orders issued by the South Carolina Governor. In addition, the Governor has authorized cities to seek an injunction, mandamus, or other appropriate legal action in the courts of the State.

11. All net fines (not including assessments or other payments directed elsewhere under State law) paid to the Town for violations of this Ordinance will be earmarked and donated to a nonprofit or charitable organization to be chosen at a later date.
12. Should any provision, section, paragraph, sentence or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, or words of this Emergency Ordinance as hereby adopted shall remain in full force and effect.
13. This Ordinance is adopted through normal procedures, including adoption by way of two readings, as opposed to adoption by S.C. Code § 5-7-250(d), which requires only one reading, but cannot be implemented for more than 61 days at a time. This Ordinance shall remain in place until December 31, 2021 or until the Governor allows the current State of Emergency to expire, whichever date comes first.

**MOVED, APPROVED AND ADOPTED THIS 3<sup>rd</sup> DAY OF MARCH, 2021.**

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**John D. Labriola, Mayor**

**ATTEST:**

By: \_\_\_\_\_  
**Petra Reynolds, Town Clerk**

1<sup>st</sup> Reading: February 2, 2021

2<sup>ND</sup> Reading: March 3, 2021



Tab | 12

**TOWN COUNCIL**

**Agenda Item**



# REQUEST FOR TOWN COUNCIL ACTION

**TO:** Mayor and Town Council Members  
**FROM:** Dorota Szubert Town Treasurer  
**SUBJECT:** Charleston Area Therapeutic Riding request to approve modified program funding.  
**DATE:** February 2, 2021

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**BACKGROUND:** On May 5, 2020, Town Council approved funding of \$150,000 to 20 applicants as part of its continued charitable contribution program. One of the awarded applicants, Charleston Area Therapeutic Riding, received \$7,084 to provide therapeutic riding sessions to twelve children with disabilities from public schools on Johns and Wadmalaw Islands. Due to COVID-19 restrictions, Charleston County School District is not allowing any field trips for their students, and the riding sessions cannot be held. In an effort to continue working with the underserved children, the CATR developed a virtual public-school program that is very similar to its in-person sessions.

**ACTION REQUESTED:** To approve reallocation of funds to the virtual program.

**BUDGET & FINANCIAL DATA:** No new funding requested. Funds for the in-person program has been approved and disbursed in May 2020.



## Charleston Area Therapeutic Riding, Inc.

P.O. Box 146 • Johns Island, SC 29457-0416 • (843) 559-6040 • Fax: (843) 559-0176

January 8, 2021

Ms. Dorota Szubert and Town Council Members  
Town of Kiawah Island  
4475 Betsy Kerrison Parkway  
Kiawah Island, SC 29455

Dear Ms. Szubert and Town Council Members,

All of us at Charleston Area Therapeutic Riding are grateful for the continued support of the Town of Kiawah Island. Our programs simply would not be possible without your generosity and commitment to our mission.

In May of 2020, we were thrilled to receive a grant from the Town of Kiawah Island for our Public School Program. Unfortunately, our plans for the Public School Program have been greatly affected by COVID-19. Even though Charleston County schools are in session, the County is not allowing any field trips or outside visitors at this time. With the rise in cases in South Carolina, we do not expect this rule to change this school year.

In an effort to continue working with this underserved population, our staff developed a Virtual Public School Program that includes a weekly 45-minute live virtual lesson as well as a corresponding "barn box" of hands-on supplies to be delivered to the schools each week. We have been in contact with the teachers, and are planning to move forward with this program during the spring semester beginning in February 2021. The budget for this program is very similar to our in-person program minus the cost of transportation. The funds for transportation will be re-allocated to cover the costs needed to adapt our traditional program to a virtual format. This includes a hot spot for internet access in the pastures and barns and also the additional staff hours needed to shift the program and develop meaningful virtual lesson plans. Volunteers will be utilized to assemble "barn boxes" and deliver them to the schools. If approved, the grant from the Town of Kiawah Island will be used to provide this much-needed extracurricular activity to a special education classroom from Mt. Zion Elementary School on Johns Island.

Please be in touch if any more information would be helpful. Thank you for your time and thoughtful consideration.

Sincerely,

Amanda A. Gerald  
Philanthropy Director  
[info@catr-program.org](mailto:info@catr-program.org), 843-340-2224





**Mayor**

John D. La riola

**Council Members**

Maryanne Connelly

John Moffitt

Scott Parker

Dan Prickett

**Town Administrator**

Stéphanie Monroe Tillerson

## MEMORANDUM

**TO:** Mayor and Council Members

**FROM:** John Taylor, Jr., Planning Director

**DATE:** February 2, 2021

**SUBJECT:** Planning and Zoning Committee Vacancies

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The Town received eleven resumes for persons interested in one or both committees, in which there were several qualified candidates. This represents a significant higher interest from previous years. The following persons have been recommended to fill the current vacancies of the Planning Commission and Board of Zoning Appeals. Also included are submitted resumes for these persons. Please feel free to follow up with any questions or concerns.

**Planning Commission:**

There are currently **two** vacancies on the Planning Commission. Member of the Planning Commission serve four-year terms; however, the recommended names are to fill existing terms of Mr. John Moffitt (Elected to Town Council) and Ms. Gale Messerman (Moving off Island). Mr. Moffitt's term is set to expire in 2024. Ms. Messerman's term is set to expire in 2023.

**1. Madeleine Kaye (Term set to expire 2023)**

252 Sea Marsh Drive, Kiawah Island, SC 29455 | Ph. 843-670-6801  
[applevalley54@yahoo.com](mailto:applevalley54@yahoo.com)

Ms. Kaye is a retired professional who spent 30 years in sales administration, finance, public affairs, communications and solutions consulting. She has been recognized for problem solving, project management expertise and superior people management as the recipient of several awards. She has also worked as a reporter in Pennsylvania and New Jersey covering local news and government including Planning Commission and Zoning Hearing Boards. Ms. Kaye has been vacationing on Kiawah since 1984 and a property owner since 2005.

**2. Gaye Stathis (Term set to expire 2024)**

288 Marsh Cove Road, Kiawah Island, SC 29455 | Ph. 404-277-0514  
[gayestathis@gmail.com](mailto:gayestathis@gmail.com)

Ms. Stathis spent a 23-year career in corporate lending including loan portfolio management for asset-based facilities for large middle market companies located throughout the US. She was responsible for retaining legal representation for purpose of documenting complex multibank credit facilities and negotiated loan facility structure and parameters as well as performance covenants and pricing. She earned her Business

Administration degree from UNC Chapel Hill and MBA from University of Alabama. Ms. Stathis shares a breadth of volunteer and philanthropic involvement, serving as Co-Chair of the Kiawah Arts Etc. Tour of Home, South Carolina Environmental Law Project, Coastal Conservation League, Sea Islands Water Wellness and the Kiawah Conservancy.

### **Board of Zoning Appeals:**

There are currently **two** vacancies on the Board of Zoning Appeals. Members of the Board of Zoning Appeals serve three-year terms however, the recommended names are to fill existing terms of Mr. Ron Hacker (Moved off Island) and Dr. Scott Parker (Elected to Town Council). Both of these terms are set to expire in 2022.

**1. Russell A. Berner, P.E. (Term set to expire 2022)**

286 Masters Court Kiawah Island, SC 29455 | Ph. 973-615-7611

[raberner@constructionclaimsgroup.com](mailto:raberner@constructionclaimsgroup.com)

Mr. Berner is a licensed professional engineer with 45 years of experience in engineering and construction disciplines. He earned a Bachelor of Engineering degree in Mechanical Engineering in 1978. Since 1989, he has been a licensed Professional Engineer in NJ, where he still maintains that license. Mr. Berner was also a licensed P.E. in New York, Virginia, and Pennsylvania. In 1999 he started his own engineering/construction consulting firm and expanded his project management services to Washington, DC, Texas and throughout the northeast. Mr. Berner's firm specialized in analyzing claims/disputes for owners and contractors. Commonly, the disputes included allegations of defective design which required utilization of design/construction experience to flush out the actual cause of the dispute. Mr. Berner and his wife moved to Kiawah in March of 2020.

**2. Laurence (Larry) Rosenfeld (Term set to expire 2022)**

99 Jackstay Court Kiawah Island, SC 29455 | Ph. 704-437-1028

[larry@rosenfeldandco.com](mailto:larry@rosenfeldandco.com)

Mr. Rosenfeld is the founder and owner of R&J Webbing Corporation, in North Carolina. From 1978 to 2011 he served as CEO of Industrial Textile Manufacturing Corporation for private and governmental entities. Mr. Rosenfeld currently serves as business consultant, consulting with small business owners with respect to business decisions and improvements. Mr. Rosenfeld has years of experience serving on Statesville, North Carolina's Planning Board and Board of Adjustments. He was appointed and served on the Statesville Board of Adjustments from August 2005 to July 2015 and from July 2019 to December 2020. Mr. Rosenfeld has been a Kiawah homeowner since 1993 and has served in leadership roles in various community groups.





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**TOWN COUNCIL**

**Agenda Item**

# Board of Zoning & Appeals

Members serve a three-year term. The BZA has three main purposes:

To hear and decide zoning appeals when it is alleged by the appellant that an administrative official has made an error (Administrative Review)

To hear and decide applications for variance from the requirements of zoning regulations (Variances)

To permit uses by special exception, subject to the terms and conditions for those uses as identified in the zoning regulations (Special Exceptions).

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## MEETING TIMES

**Monthly, every 3rd\* Monday at 4:00pm**

The Town of Kiawah Island

## **Board of Zoning Appeals Charter**

Board of Zoning Appeals (BZA) meets as needed to: hear and decide zoning appeals of an alleged error; hear and decide applications for variances; and permit uses by special exception. Members of this group are appointed by the Mayor and Town Council and serve for three-year terms.

## 2021 Board of Zoning Appeals

*The Committee members serve three year terms which expire on January 31st and are appointed by the Mayor and Town Council.*

**Frank Cassidy (2023)**

31 Rhett's Bluff Road  
Kiawah Island, SC 29455  
Phone: 768-4658  
Email: [fcassidy@comcast.net](mailto:fcassidy@comcast.net)

**Wendy Kulick (2023)**

38 Marsh Edge Lane  
Kiawah Island, SC 29455  
Phone: 768-7466  
Email: [wkulick@bellsouth.net](mailto:wkulick@bellsouth.net)

**\*Ben Farabee (2021)**

39 Marsh Edge Lane  
Kiawah Island, SC 29455  
Phone: 243-9861  
Email: [abfarabee@bellsouth.net](mailto:abfarabee@bellsouth.net)

**\*J. Jay Lewis (2021)**

114 Bufflehead Drive  
Kiawah Island, SC 29455  
Phone: 513-310-2413  
Email: [hlewis@cinci.rr.com](mailto:hlewis@cinci.rr.com)

**\*Morris Hanan (2021)**

70 Clay Hall  
Kiawah Island, SC 29455  
Phone: (847) 650-3642  
Email: [mvhanan@gmail.com](mailto:mvhanan@gmail.com)

**Russell Berner (2022)**

286 Masters Court  
Kiawah Island, SC 29455  
Phone: 973-615-7611  
Email: [raberne@constructionclaimsgroup.com](mailto:raberne@constructionclaimsgroup.com)

**Laurence (Larry) Rosenfeld (2022)**

99 Jackstay Court  
Kiawah Island, SC 29455  
Phone: 704-437-1028  
Email: [larry@rosenfeldandco.com](mailto:larry@rosenfeldandco.com)

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**John Taylor, Plannin Director**

Town of Kiawah Island  
4475 Betsy Kerrison Parkway  
Kiawah Island, SC 29455  
Phone: 768-9166  
Email: [jtaylor@kiawahisland.org](mailto:jtaylor@kiawahisland.org)

**John R. Moffitt, Council Liaison**

36 Painted Bunting Court  
Kiawah Island, SC 29455  
Phone: 704-968-5130  
Email: [jmoffitt@kiawahisland.org](mailto:jmoffitt@kiawahisland.org)

Highlighted are new appointments  
\* are re-appointments

# Laurence (Larry) Rosenfeld

## Business Owner

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### Contact

99 Jackstay Court  
Kiawah Island SC 29455  
(704) 437-1028  
larry@rosenfeldandco.com

### Community Leadership Positions

Junior Achievement Coordinator  
President of the Synagogue  
Ritual and Religious School  
Chairperson  
Cemetery Committee  
Chairperson  
Statesville Leadership Academy  
Education Committee Greater  
Statesville Chamber of  
Commerce  
FIBCA Golf Tournament  
Coordinator

### Homeowner on Kiawah Island

July, 1993 - Present

### Community Experience

*July 2019 - December 2020*

Statesville Board of Adjustment • Statesville North Carolina

Appointed by the City Council to the local Board of Adjustment Quasi-Judicial entity that reviews zoning variance requests for new and existing properties and facilities. Hold community hearing for input and discussion regarding these proposed changes.

*August 2015 - June 2019*

Statesville Planning Board • Statesville North Carolina

Appointed by the City Council to the local Planning Board. Review and recommend zoning and text amendments to the local Unified Development Code. Hold community hearing for input and discussion.

*August 2005 - July 2015*

Statesville Board of Adjustment • Statesville North Carolina

Appointed by the City Council to the local Board of Adjustment Quasi-Judicial entity that reviews zoning variance requests for new and existing properties and facilities. Hold community hearing for input and discussion regarding these proposed changes.

### Work Experience

*June 2011 - Present*

Business Consultant • Rosenfeld & Company PC • North Carolina

Consulting with small business owners with respect to business decisions and improvements. Responding to taxing authorities regarding changes and adjustments to various tax returns and situations. Acting CFO for the firm overall.

*June 1978 – June 2011*

Founder and Owner • R & J Webbing Corporation • North Carolina

CEO of Industrial Textile Manufacturing Corporation for private and governmental entities.

*October 1975 – June 1978*

Comptroller and Production Manager • Southern Zipper Corporation • North Carolina

Managed industrial zipper chain manufacturing firm for foreign and domestic markets.



*June 1969 – October 1975*

Production Manager • Stagg Zipper Corporation • Brooklyn New York  
Managed industrial zipper chain manufacturing firm for foreign and domestic markets.

## **Education**

*June 1969*

Masters of Business Administration • Adelphi University • New York  
Business Management Specialization

*June 1967*

Bachelor of Arts in History and Economics • New York University  
Heights • Bronx, New York

## Curriculum Vitae for:

Russell A. Berner, PE  
286 Masters Court  
Kiawah, SC 29455  
973/615-7611

On December 22, 2020, I received an email from the Town of Kiawah that referenced two committee openings on the Planning Commission and the Board of Zoning Appeals. This Curriculum Vitae is provided for consideration to serve on one of the committees for the Town of Kiawah. I would prefer to serve on the Planning Commission.

### Overview

I am a licensed Professional Engineer with 45 years of experience working in the engineering and construction disciplines. During the last 20 years, I formed and grew my own consulting firm that specializes in providing expert witness services regarding engineering and construction litigation. My project experience is extensive including public projects (police/fire, education, hospitals, public housing, and administrative facilities), private communities (condominiums, townhouses, and single family) roads/bridges, water/sewer projects, and power plants. My experience provides a solid foundation to serve on the Planning Board for the Town of Kiawah.

### Experience and Background

I earned a Bachelor of Engineering degree in Mechanical Engineering in 1978.

Since 1989, I have been a licensed Professional Engineer in NJ – I still maintain that license. At the peak of my career, I also was a licensed P.E. in New York, Virginia, and Pennsylvania.

Immediately after graduation in 1978, I commenced working for Exxon providing project management services for construction of very complex petrochemical projects around the world. My scope of work included inspecting work to ensure it was performed per design, planning work and supervising subcontractors. I worked on projects located in Italy, France, Colombia S.A., Texas, New Jersey and Louisiana.

I grew tired of the constant travel, so in 1986, I went to work for National Broadcast Company (NBC) in New York City providing the same kind of project management services, but now for broadcast facilities. At this time, I became involved with designing facilities such that they met code, meeting with NYC officials to get projects approved for construction, and coordinating inspections with code officials.

In 1988 I commenced work with consulting firms that specialized in planning and construction of public projects (referenced in Overview) as well private living communities. At this time, I

was involved with projects that had to be designed to obtain DEP, EPA and/or local approval. My project management and construction skills that started with Exxon were used for the construction of major hospitals, 500 unit housing developments on the Hudson River, and rescue of projects plagued by poor contractors.

In 1999 I started my own engineering/construction consulting firm named Construction Claims Group. I successfully grew my firm and expanded my project management services to Washington, DC, Texas and throughout the northeast. My firm also specialized in analyzing claims/disputes for owners and contractors. Commonly, the disputes included allegations of defective design which required me to utilize all of my design/construction experience to ferret out the actual cause of the dispute. I have been involved with more than 250 design/construction disputes. My goal always was to amicably resolve the conflicts, but occasionally I had to testify as an expert witness in court. Overall, I have provided expert testimony 29 times.

In March of 2020, my wife and I moved to Kiawah.



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**TOWN COUNCIL**

**Agenda Item**

# Planning Commission

The Planning Commission's primary objectives are to approve plats and make recommendations to the Town Council on planned development, zoning district and map amendments, zoning text amendments, and comprehensive plan updates. Members serve a four-year term.

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## MEETING TIMES

**Monthly, every 1st Wednesday at 3:00pm**



## Town of Kiawah Island

# Planning Commission Charter

**Planning Commission:** The Planning Commission meets monthly to approve plats and make recommendations to the Town Council on planned development, zoning district, map amendments, text amendments, and comprehensive plan updates. Members, who are citizens of Kiawah Island, are appointed by the Mayor and Town Council. Members of this group serve for four (4) year terms.

**SECTION 6-29-330.** Areas of jurisdiction; agreement for county planning commission to act as municipal planning commission.

(A) A municipality may exercise the powers granted under the provisions of this chapter in the total area within its corporate limits. A county may exercise the powers granted under the provisions of this chapter in the total unincorporated area or specific parts of the unincorporated area. Unincorporated areas of the county or counties adjacent to incorporated municipalities may be added to and included in the area under municipal jurisdiction for the purposes of this chapter provided that the municipality and county councils involved adopt ordinances establishing the boundaries of the additional areas, the limitations of the authority to be exercised by the municipality, and representation on the boards and commissions provided under this chapter. The agreement must be formally approved and executed by the municipal council and the county councils involved.

(B) The governing body of a municipality may designate by ordinance the county planning commission as the official planning commission of the municipality. In the event of the designation, and acceptance by the county, the county planning commission may exercise the powers and duties as provided in this chapter for municipal planning commissions as are specified in the agreement reached by the governing authorities. The agreement must specify the procedures for the exercise of powers granted in the chapter and shall address the issue of equitable representation of the municipality and the county on the boards and commissions authorized by this chapter. This agreement must be formally stated in appropriate ordinances by the governing authorities involved.

**SECTION 6-29-340.** Functions, powers, and duties of local planning commissions.

(A) It is the function and duty of the local planning commission, when created by an ordinance passed by the municipal council or the county council, or both, to undertake a continuing planning program for the physical, social, and economic growth, development, and redevelopment of the area within its jurisdiction. The plans and programs must be designed to promote public health, safety, morals, convenience, prosperity, or the general welfare as well as the efficiency and economy of its area of jurisdiction. Specific planning elements must be based upon careful and comprehensive surveys and studies of existing conditions and probable future development and include recommended means of implementation. The local planning commission may make, publish, and distribute maps, plans, and reports and recommendations relating to the plans and programs and the development of its area of jurisdiction to public officials and agencies, public utility companies, civic, educational, professional, and other organizations and citizens. All public officials shall, upon request, furnish to the planning commission, within a reasonable time, such available information as it may require for its work. The planning commission, its members and employees, in the

performance of its functions, may enter upon any land with consent of the property owner or after ten days' written notification to the owner of record, make examinations and surveys, and place and maintain necessary monuments and marks on them, provided, however, that the planning commission shall be liable for any injury or damage to property resulting therefrom. In general, the planning commission has the powers as may be necessary to enable it to perform its functions and promote the planning of its political jurisdiction.

(B) In the discharge of its responsibilities, the local planning commission has the power and duty to:

(1) prepare and revise periodically plans and programs for the development and redevelopment of its area as provided in this chapter; and

(2) prepare and recommend for adoption to the appropriate governing authority or authorities as a means for implementing the plans and programs in its area:

(a) zoning ordinances to include zoning district maps and appropriate revisions thereof, as provided in this chapter;

(b) regulations for the subdivision or development of land and appropriate revisions thereof, and to oversee the administration of the regulations that may be adopted as provided in this chapter;

(c) an official map and appropriate revision on it showing the exact location of existing or proposed public street, highway, and utility rights-of-way, and public building sites, together with regulations to control the erection of buildings or other structures or changes in land use within the rights-of-way, building sites, or open spaces within its political jurisdiction or a specified portion of it, as set forth in this chapter;

(d) a landscaping ordinance setting forth required planting, tree preservation, and other aesthetic considerations for land and structures;

(e) a capital improvements program setting forth projects required to implement plans which have been prepared and adopted, including an annual listing of priority projects for consideration by the governmental bodies responsible for implementation prior to preparation of their capital budget; and

(f) policies or procedures to facilitate implementation of planning elements.

#### **SECTION 6-29-350. Membership; terms of office; compensation; qualifications.**

(A) A local planning commission serving not more than two political jurisdictions may not have less than five nor more than twelve members. A local planning commission serving three or more political jurisdictions shall have a membership not greater than four times the number of jurisdictions it serves. In the case of a joint city-county planning commission the membership must be proportional to the population inside and outside the corporate limits of municipalities.

(B) No member of a planning commission may hold an elected public office in the municipality or county from which appointed. Members of the commission first to serve must be appointed for staggered terms as described in the agreement of organization and shall serve until their successors are appointed and qualified. The compensation of the members, if any, must be determined by the governing authority or authorities creating the commission. A vacancy in the membership of a planning commission must be filled for the unexpired term in the same manner as the original appointment. The governing authority or authorities creating the commission may remove any member of the commission for cause.

(C) In the appointment of planning commission members the appointing authority shall consider their professional expertise, knowledge of the community, and concern for the future welfare of the total community and its citizens. Members shall represent a broad cross section of the interests and concerns within the jurisdiction.

## 2021 Planning Commission

*The Commission is composed of 7 members appointed by the Mayor and Town Council. Appointments are for four-year terms*

**Fred Peterson, Chairman (2023)**

5544 Green Dolphin Way  
Kiawah Island, SC 29455  
(843) 670-9512  
Email: [fred.m.peterson@gmail.com](mailto:fred.m.peterson@gmail.com)

**\*William (Bill) Dowdy (2021)**

87 Bufflehead Drive  
Kiawah Island, SC 29455  
(843) 641-0160  
Email: [Dowdy.bill@yahoo.com](mailto:Dowdy.bill@yahoo.com)

**\*Andrew J. Capelli, (2021)**

160 Governor's Drive  
Kiawah Island, SC 29455  
(843) 768-9113  
Fax: (843) 768-0399  
Email: [acapelli35@hotmail.com](mailto:acapelli35@hotmail.com)

**Robert (Brit) Stenson (2024)**

142 Blue Heron Pond  
Kiawah Island, SC 29455  
(843) 768-4242  
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**Larry Iwan (2022)**

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**Madeleine Kaye (2023)**

252 Sea Marsh Drive  
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(843) 670-6801  
Email: [applevalley54@yahoo.com](mailto:applevalley54@yahoo.com)

**Gaye Stathis (2024)**

288 Marsh Cove Road  
Kiawah Island, SC 29455  
(404) 277-0514  
Email: [gayestathis@gmail.com](mailto:gayestathis@gmail.com)

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**John Taylor, Plannin Director**

Town of Kiawah Island  
4475 Betsy Kerrison Parkway  
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Email: [jtaylor@kiawahisland.org](mailto:jtaylor@kiawahisland.org)

**John R. Moffitt, Council Liaison**

36 Painted Bunting Court  
Kiawah Island, SC 29455  
Phone: 704-968-5130  
Email: [jmoffitt@kiawahisland.org](mailto:jmoffitt@kiawahisland.org)

Highlighted are new appointments  
\* are re-appointments



## **MADELEINE KAYE**

252 Sea Marsh Drive, Kiawah Island SC 29455

843-670-6801

applevalley54@yahoo.com

### **Objective:**

To serve on the TOKI Planning Commission

### **Education:**

Graduated with honors from Cedar Crest College in Allentown PA, in 1972 with a double major in Political Science and History.

### **Relevant Experience:**


- Began vacationing on Kiawah in 1984; property owner since 2005; owned a villa at 3575 Seascape, a villa at 5517 Turtle Cove, and a home at 252 Sea Marsh Drive.
- Member of the Our World Committee since 2010; co-chair in 2015; Chair from 2016-present.
- Past President, Vice President, and Secretary of the Kiawah Island Ladies Nine-Hole Golf League.
- Co-founder of the Sea Marsh Book Club.

### **Employment:**

Retired from Merck & Co., Inc., in 2008, following a 30-year career in Sales Administration, Finance, Public Affairs, Communications, and Solutions Consulting. Recipient of several prestigious Sales Management and Field Administration awards. Recognized for problem-solving skills, project management expertise; and superior people management.

Prior to working for Merck, worked six years as a reporter for the Daily Intelligencer (Doylestown, PA), and the Observer Tribune (Mendham NJ), covering local news and government, including Planning Commissions and Zoning Hearing Boards, for six years.

### **Awards and Acknowledgements**

- Two-time recipient of the Merck Masters (Management) Award
  - Five-time recipient of Merck's Distinguished Vice President's Award
  - Multiple recipient of Merck's Performance Excellence awards
  - Recipient of the Alice Bolger Award in 2011
  - Recipient of the Bob McCarthy Award in 2014
  - Life Master (competitive duplicate bridge) in 2014
  - Silver Life Master (competitive duplicate bridge) in 2018
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## Gaye Stathis

288 Marsh Cove Road  
Kiawah Island, SC 29455  
[gayestathis@gmail.com](mailto:gayestathis@gmail.com)  
404-277-0514

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### RESIDENCY STATUS

Registered full time resident of SC since April 2018. Have been visiting Kiawah since 1999 and bought our first property (an unimproved lot) in 2003. Built our Kiawah house in 2005/2006 as a second home while our primary residence was Atlanta, GA. Retired in February 2018, sold Atlanta house in 2019 leaving Kiawah as our only residence.

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### KIAWAH EXPERIENCE

Since relocating to Kiawah full time, I have been on the Nominating Committee of KICA which was recently "disbanded" following the past election in the fall of 2019. Since May 2019 I serve as co-Chair of the Kiawah Arts Etc. Tour of Homes originally scheduled to take place in April 2020 and now tentatively scheduled for April 2021 due to the pandemic. Arts Etc. raises funds to benefit children in public schools on Johns and Wadmalaw Islands via arts education programs that would otherwise not be available to these students. My responsibilities are varied but primarily involve solicitation of Business Sponsorships from Kiawah Vendors such as architects, builders, interior design firms. Coordination of a dozen subcommittees' responsibilities and progress while working with deadlines at various points along a 7 month timeline as we approached the date for the tour of 5 homes on Kiawah.

Philanthropic involvement: South Carolina Environmental Law Project, Coastal Conservation League, Sea Islands Water Wellness (sponsored the building of a well for a Wadmalaw family), Kiawah Conservancy.

My husband and I are members of the Kiawah Island Club and the Governor's Club.

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### EDUCATION

UNC Chapel Hill 5/1977, Business Administration degree

University of Alabama, MBA 1979

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### PROFESSIONAL CAREER

23 year career in corporate lending including loan portfolio management for asset based facilities for large middle market companies located throughout the US. Primary point of contact was CEO and CFO of borrower companies. Responsible for retaining legal representation for purpose of documenting complex multibank credit facilities. Developed new business relationships. Negotiated loan facility structure and parameters as well as performance covenants and pricing.



## **COMMUNITY INVOLVEMENT**

From 2002 to 2018 I acted as the President of my community's HOA. It was a small group of 14 houses but it gave me a lot of experience with local law enforcement and our town government officials. I worked with our utility companies to install streetlights after a rash of burglaries on our street. I also was instrumental in getting our town to repave our street well ahead of plans, so had to meet with and present evidence to the town's public works officials to disprove the consultant's assessment that our street did not need repaving. Also handled landscaping related contractors for our common property including tree removal services, irrigation system upgrades, and issues with a significant problem regarding a large sinkhole in our common property. Met with town engineers and chief of police for ongoing problems and issues in our community. I served on the Board of Trustees of St. Martin's Episcopal School for 6 years on the Finance Committee and Investment Committee. Our primary responsibilities included overseeing and interviewing asset management firms for our endowment, budgeting and forecasting around a school with an \$8 Million annual budget.

For 2 years I acted as a consumer advocate for customers of DeKalb County Georgia's Watershed Management utility, helping at risk families resolve complex billing and metering problems. I was appointed to this position by my County Commissioner as a member of an 8 person committee that included the County Manager and head of Watershed Management for a county with a population of 750,000+ and aging infrastructure.