

**DEVELOPMENT AGREEMENT**  
**BY AND AMONG KIAWAH REAL ESTATE COMPANY, LLC; KIAWAH ISLAND INN**  
**COMPANY, LLC; KIAWAH TENNIS CLUB, LLC; COUGAR POINT GOLF**  
**COMPANY, LLC; TURTLE POINT GOLF COMPANY, LLC; OSPREY POINT GOLF**  
**COMPANY, LLC; THE OCEAN COURSE GOLF CLUB, LLC;**  
**AND THE TOWN OF KIAWAH ISLAND**

**THIS DEVELOPMENT AGREEMENT** (the "Agreement") is entered into this 5<sup>th</sup> day of October, 2010, (the "Effective Date"), by and among Kiawah Real Estate Company, LLC; Kiawah Island Inn Company, LLC; Kiawah Tennis Club, LLC; Cougar Point Golf Company, LLC; Turtle Point Golf Company, LLC; Osprey Point Golf Company, LLC; and The Ocean Course Golf Club, LLC; all of whom are described further herein as the "Property Owner"; and the Town of Kiawah Island (the "Town"), a municipal corporation organized and existing under the laws of the State of South Carolina.

**RECITALS**

WHEREAS, the South Carolina Local Government Development Agreement Act (the "Act"), codified at sections 6-31-10 to -160 of the South Carolina Code, enables municipalities to enter into binding development agreements with persons or entities having a legal or equitable interest in land intending to undertake any development, provided the land has certain minimum acreages of highland, and the development agreement and its approval complies with certain other conditions set forth in the Act;

WHEREAS, pursuant to section 6-31-30 of the South Carolina Code, the Town has adopted section 12A-506 of the Zoning Ordinance, setting forth the requirements for considering and entering into development agreements;

WHEREAS, in satisfaction of section 6-31-50 of the South Carolina Code, section 12A-506.5 of the Zoning Ordinance, and any other applicable notice requirements, the Town Council and/or Planning Commission conducted public hearings regarding its consideration of this Development Agreement on September 1, 2010, and on September 30, 2010, after publishing and announcing notice of its intent to consider this Development Agreement in a newspaper of general circulation in Charleston County, setting forth the date of the first public hearing, with such notice specifying the location of the property subject to this Development Agreement as well as the other information required under section 6-31-50(b)(2) of the South Carolina Code and sections 12A-506.5 and 12A-506.6 of the Zoning Ordinance;

WHEREAS, the Real Property subject to this Agreement is approximately 866.37 acres, including approximately 798.76 acres of highland;

WHEREAS, pursuant to section 12A-506.4 of the Zoning Ordinance, the Planning Commission reviewed this Agreement, found this Agreement consistent with the Comprehensive Plan, and recommended approval of this Agreement to Town Council;

WHEREAS, pursuant to section 6-31-60(A)(7) of the South Carolina Code and section 12A-506.2.G of the Zoning Ordinance, Town Council finds this Agreement to be consistent with the Act, the Comprehensive Plan, the Land Development Regulations, and the Zoning Ordinance;

WHEREAS, pursuant to section 6-31-30 of the South Carolina Code and section 12A-506.7 of the Zoning Ordinance, the Town Council adopted Ordinance No. 2010-7 on October 5, 2010, approving this Development Agreement.

**NOW THEREFORE**, the Parties agree as follows:

1. **Definitions.** In this Development Agreement, capitalized words or phrases shall be defined and have the meaning set forth in Exhibit 1.1.
2. **Parties.** The Parties to this Agreement are the Property Owner and the Town.
3. **Relationship of the Parties.** This Agreement creates a contractual relationship between the Parties. This Agreement is not intended to create, and does not create, the relationship of master/servant, principal/agent, independent contractor/employer, partnership, joint venture, or any other relationship where one party may be held responsible for the acts of the other party. Further, this Agreement is not intended to create, nor does it create, a relationship whereby the conduct of the Property Owner constitutes "state action" for any purpose.
4. **Legal Description of the Real Property.** The Real Property subject to this Agreement consists of approximately 866.37 acres, including approximately 798.76 acres of highland. The Real Property is fully described in the legal description attached hereto as Exhibit 4.1. The Charleston County Tax Map Numbers for the Real Property on the Effective Date are: 207-00-00-009; 207-06-00-232; 207-06-00-401; 207-06-00-399; 207-06-00-407; 207-06-00-404; 207-06-00-405; 207-06-00-406; 207-06-00-402; 207-06-00-403; 207-00-00-017; 207-06-00-013; 209-01-00-121; 209-01-00-122; 209-05-00-098; 209-07-00-126; 209-07-00-105; 264-05-00-002; 209-07-00-124; 207-00-00-018; 264-01-00-054; 207-00-00-019; and 207-00-00-020. The Real Property subject to this Agreement does not include the parcels comprising Night Heron Park, which zoning shall not be subject to change during the term of this Agreement unless the Town acts favorably on an application for rezoning by the owner of Night Heron Park.

5. **Identity of the Property Owner.** "Property Owner" means Kiawah Real Estate Company, LLC; Kiawah Island Inn Company, LLC; Kiawah Tennis Club, LLC; Cougar Point Golf Company, LLC; Turtle Point Golf Company, LLC; Osprey Point Golf Company, LLC; and The Ocean Course Golf Club, LLC; together with all subsidiaries thereof and other affiliated entities which have a legal ownership interest on the date of execution hereof in any of the Real Property as described in Paragraph 4 and includes their successors in interest and successors in title and/or assigns by virtue of assignment or other instrument pursuant to Paragraph 33 hereof. The Property Owner warrants that there are no other legal or equitable owners of the Real Property on the Effective Date.
6. **Intent of the Parties.** The Town and the Property Owner agree that the burdens of this Agreement bind, and the benefits of this Agreement shall inure, to each of them and to their successors in interest and, in the case of the Property Owner, its successors in title and/or assigns pursuant to Paragraph 33 hereof.
7. **Benefits and Burdens.** The Town and the Property Owner enter this Agreement in order to serve the benefits and burdens referenced in sections 6-31-10 to -160 of the South Carolina Code.
8. **Consistency with the Town's Comprehensive Plan and Land Development Regulations.** This Agreement is consistent with the Town's Comprehensive Plan, Land Development Regulations, and Zoning Ordinance. Whenever express or implied substantive provisions of this Agreement are inconsistent with the applicable standards set forth in the Zoning Ordinance, the standards set forth in the Zoning Ordinance and the standards set forth in this Agreement shall, to the extent possible, be considered in pari materia to give effect to both the Zoning Ordinance and this Agreement; provided, however, that in the event of a conflict, and subject to the provisions of section 6-31-80 of the South Carolina Code, the standards set forth in this Agreement shall govern. Nothing is intended herein to limit application of administrative or procedural or similar provisions of the Zoning Ordinance or to limit the Town in amending provisions of the Zoning Ordinance in accordance with law and any development agreement. In the event of a dispute between the parties to this Agreement as to whether a provision in the Comprehensive Plan or Zoning Ordinance is inconsistent with express or implied substantive provisions of this Agreement, the parties must first submit such disputed interpretation to Town Council and must wait seven (7) days after such submittal before invoking the remedies afforded them under this Agreement.
9. **Legislative Act.** Any change in the standards established by this Agreement or to Laws pertaining to the same shall require the approval of the Town Council, subject to compliance with applicable statutory procedures and consistent with Paragraph 10(a) of this Agreement. This Agreement constitutes a legislative act of Town Council. Town Council adopted this Agreement only after following the procedures required by section 6-31-10 to -160 of the South Carolina Code. This Agreement shall not be construed to create a debt of the Town as referenced in section 6-31-145 of the South Carolina Code.

10. Applicable Land Use Regulations.

- (a) Applicable Laws and Land Development Regulations. Except as otherwise provided by this Agreement or the Act, the Laws applicable to the Development of the Real Property subject to this Agreement are those in force on the Town's adoption of this Agreement. The Town shall not apply subsequently adopted Laws and Land Development Regulations to the Real Property or the Project unless the Town has held a public hearing and has reasonably and fairly determined: (1) the proposed, subsequent Laws or Land Development Regulations are not in conflict with the Laws or Land Development Regulations governing the Agreement and do not prevent the Development set forth in this Agreement; (2) the proposed, subsequent Laws or Land Development Regulations are essential to the public health, safety, or welfare and the proposed, subsequent Laws or Land Development Regulations expressly state that they apply to the Development that is subject to this Agreement; (3) the proposed, subsequent Laws or Land Development Regulations are specifically anticipated and provided for in this Agreement; (4) the Town demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of this Agreement which changes, if not addressed by the Town, would pose a serious threat to the public health, safety, or welfare; or (5) this Agreement is based on substantially and materially inaccurate information supplied by the Property Owner. Nothing herein shall preclude the Property Owner from agreeing to abide by such new Laws, regulations, or ordinances subsequently passed by the Town which the Property Owner deems appropriate. A copy of the Town's current versions of Articles 12A (Zoning and Land Use), 12C (Subdivision Regulations), and 12E (Road Code) are attached hereto as Exhibits 10.1, 10.2, and 10.3 respectively.
- (b) Dock Permitting. The provisions of the Dock Key Locations Ordinance, codified at section 12A-219 of the Zoning Ordinance, shall apply to the Real Property. A copy of this Ordinance is attached hereto as Exhibit 10.4. All Town permits necessary for dock construction shall be issued expeditiously by the Town upon compliance with the Dock Key Locations Ordinance.
- (c) Road Code, Subdivision Regulations, and Traffic Mitigation Measures. The Town's Road Code, codified in Articles 12E and 12F of the Zoning Ordinance, and Subdivision Regulations, codified in Article 12C of the Zoning Ordinance, shall apply to the Real Property except that, in lieu of any potential obligations with respect to any bridges, overpasses, or roads comprising the Kiawah Island Parkway (the "Parkway") the Property Owner shall no later than 90 days after the execution of this Agreement donate \$250,000.00 to the Town towards a portion of the expenses of the entrance parkway and bike path improvement project.

11. **Building Codes and Laws Other Than Land Use Regulations.** Notwithstanding any provision which may be construed to the contrary in this Agreement, the Property Owner shall comply with any building, housing, electrical, plumbing and gas codes subsequently adopted by the Town or other governmental entity, as authorized by Chapter 9 of Title 6 of the South Carolina Code. This Agreement shall not be construed to supercede or contravene the requirements of any building, housing, electrical, plumbing and gas codes subsequently adopted by the Town or any other governmental entity, as authorized by Chapter 9 of Title 6 of the South Carolina Code. Pursuant to S.C. Code §§ 6-9-10 (A) et seq., the Town shall enforce only the national building and safety codes as provided in that chapter. The provisions of this Agreement are not intended, nor should they be construed in any way, to alter or amend the rights, duties, and privileges of the Town to exercise governmental powers and pass laws not applicable to Development of the Real Property including, but not limited to, the power of eminent domain and the power to levy and collect taxes; provided, however, that Laws applicable to the Development of the Real Property shall be subject to Paragraph 10(a) of this Agreement.

12. **Local Development Permits and Other Permits Needed.** The Parties anticipate that the following local Development Permits and other regulatory permits will be needed to complete the Development of the Project:

Zoning permits, plat approvals (preliminary, conditional or final), construction plan approvals, building permits, and certificates of occupancy.

The failure of this Agreement to address a particular permit, condition, term, or restriction does not relieve the Property Owner of the necessity of complying with the law governing the permit requirements, conditions, terms or restrictions.

13. **Vested Rights Governing the Development of the Real Property.**

(a) **Vested Rights.** Subject to the provisions of Paragraph 10(a) of this Agreement, all rights and prerogatives accorded the Property Owner by this Agreement shall immediately constitute vested rights for the Development of the Real Property. Paragraph 10(a) of this Agreement does not abrogate any rights either preserved by section 6-31-140 of the South Carolina Code or that may have vested pursuant to common law, the South Carolina Vested Rights Act [codified at sections 6-29-1510 to -1560 of the South Carolina Code], and otherwise in the absence of a development agreement.

(b) **The Eleven Parcels.** For the purpose of this Agreement, the Real Property has been conceptually divided into the eleven (11) Parcels delineated on a map of the Real Property attached hereto and incorporated herein by reference as Exhibit 13.1 and delineated on a chart showing the tax map number, parcel description, and highland acreage of each Parcel attached hereto and incorporated herein by reference as Exhibit 13.2. Each numbered Parcel shall constitute a separate Parcel

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for purposes of this Agreement even if comprised of more than one tax map identification parcel.

- (c) Vested Rights for Each Parcel. Each Parcel is entitled, as a vested right of the Property Owner, to the Building Development Standards, Uses, Densities, Dwelling Units, Bedrooms, Guest Rooms, commercial square footage and other Development rights and prerogatives as set forth generally herein and in the Exhibits hereto as to each Parcel specifically.
- (d) R-2 (DA) and R-3 (DA) Zoning. For the purpose of this Agreement and simultaneously herewith, the Town hereby adopts, as a zoning text and zoning map amendment, two (2) new residential zoning districts, which shall be referred to, respectively, as the R-2 (DA) zoning district and the R-3 (DA) zoning district. The purpose and intent, allowed Uses, and Building Development Standards applicable to the R-2 (DA) zoning district shall be as set forth in Exhibit 13.3, attached hereto and incorporated herein by reference. The purpose and intent, allowed Uses, and Building Development Standards applicable to the R-3 (DA) zoning district shall be as set forth in Exhibit 13.4, attached hereto and incorporated herein by reference. The Town also adopts simultaneously herewith the other amendments to its Zoning Ordinance and to its Comprehensive Plan, if any, required to make the Zoning Ordinance and the Comprehensive Plan consistent with this Agreement.
- (e) Parcel-Specific Development Standards: Pursuant to this Agreement, the Parcel-specific Development standards (including but not limited to Parcel Density, Building Development Standards, Bedrooms cap, and allowed Uses) set forth in Exhibit 13.5, attached hereto and incorporated herein by reference, shall apply to the Development of the Real Property. All residential, resort, commercial, recreational or other Uses allowed under the Zoning Ordinance (including those uses allowed under the R-2DA and R-3DA zoning districts as set forth in Exhibit 13.3 and Exhibit 13.4), as well as those in the Parcel-specific Development standards set forth in Exhibit 13.5, shall be considered to be vested and permitted as a matter of right on the Real Property for each designated Parcel thereof. Lot area, Lot width, Lot depth, Lot coverage, setback, Building Height, yard requirements, and all other Building Development Standards shall be in accord with Exhibit 13.5 and shall be vested and permitted as a matter of right for each numbered Parcel on the Real Property as set forth therein. Building Development Standards shall not be transferred from one Parcel to another Parcel.

All property subject to this Development Agreement must comply with Section 12A – 508 Site Plan Review in all respects including but not limited to a parcel specific site plan depicting the location of proposed structures, pools, parking, directional traffic flows, bike, pedestrian, leisure trails and connections with adjacent properties.

14. **Facilities and Services.** Although the nature of this long term Project prevents the Property Owner from now providing exact completion dates, the Property Owner certifies that the following services and Facilities will be in place (or if not fully in place, the cost of their construction fully bonded or letter of credit posted pursuant to the Subdivision Regulations codified in Article 12.C of the Zoning Ordinance) at the times provided below and, as to roads, sewer, and water infrastructure, at the times Lots or Dwelling Units in subdivided real property or condominium units on recorded master deeds are offered for purchase to the public. Notwithstanding any provision herein to the contrary, the Property Owner hereby agrees that adequate Facilities (as defined in the definition of "Facilities" in Exhibit 1.1 to this Agreement) shall be available concurrent with the impacts of Development. Nothing in this Agreement shall be construed to create an obligation for the Town to construct Facilities nor impose on the Property Owner the obligation to construct or pay for Facilities except for the Property Owner's obligations for specific Facilities expressly and specifically set forth in this Agreement.

(a) **Rights-of-Way.** The Property Owner shall at its expense develop and provide roads and other related infrastructure on the Real Property that it deems necessary for its new Development. All such roads and infrastructure shall comply with applicable Laws and Land Development Regulations including the Town's Road Code. The Property Owner shall incorporate bike/pedestrian paths into its roads and related infrastructure on the Real Property.

(b) **Water and Sewer.**

(i) **Provider.** The services and Facilities for water and sewer shall be provided by Kiawah Island Utility, Inc., or its successor. However, if the Town exercises its right to eminent domain over Kiawah Island Utility, Inc., in accordance with the statutes and constitution of South Carolina, the Town would become the provider.

(ii) **Donations.** When necessary to accommodate its new Development, the Property Owner will install and contribute to Kiawah Island Utility, Inc. (or reimburse Kiawah Island Utility, Inc. for the cost of installation thereof) all water and sewer facilities and infrastructure physically installed on the Real Property owned by the Property Owner as shown on Exhibit 4.1 or on any new rights-of-way constructed by Property Owner on the Real Property. Such facilities and infrastructure include, but are not limited to, distribution lines, hydrants, pumps, and lift stations. The Town and the Property Owner acknowledge that such donation will be made in discharge, and in lieu, of possible future exactions and donations that the Town might otherwise try to recover from the Property Owner related to the donated facilities in the absence of this Agreement.

15. **Beach Parking – West Beach.** An 8’ pedestrian access easement shall be conveyed to KICA and shall be located within Parcel 2 to provide pedestrian access to the beach. The easement shall be incorporated in future development plans and shall be shown on appropriate site permit drawings. 20 parking spaces, within reasonable proximity to the pedestrian access and each other and within the overall parking plan for Parcel 2, will be available for the community. The Agreement governing the use of these parking spaces shall be similar to the Agreement in use for the community parking spaces near the Ocean Course clubhouse.
16. **Swimming Pools.** The swimming pool requirements of Article 12 for the RST Districts shall apply if the Property Owner develops residential use under R-2 (DA) at either West Beach (Parcel 2) or East Beach (Parcel 6). For purposes of this pool requirement, each Bedroom shall require the same pool construction as a Guest Room in the RST Districts. With respect to any expansion of the Sanctuary, the determination of whether the pool requirements of the RST Districts have been met shall be made by considering the total number of Guest Rooms of the Sanctuary (including the expansion) compared against the total square footage of existing pool areas of the Sanctuary.
17. **West Beach Inn.** Within sixty days of the effective date of this Agreement, Property Owner will inform the Town in writing of whether it intends to tear down or renovate the West Beach Inn. If the decision is made to demolish the Inn, the demolition must be completed within a year of the date of the written notice. If the decision is made to renovate, Property Owner must initiate the permitting process within sixty days of its written notice to the Town.
18. **East Beach Villa Check-in.** Property Owner will remove and relocate its villa check-in operations at East Beach (Parcel 6) to West Beach, Mingo Point, or off-island at the time of the redevelopment of East Beach. Although Article 12 of the Town’s Zoning Ordinance allows such use as an accessory use at West Beach only if West Beach is developed as a hotel, the Town will allow such use as an accessory use at West Beach regardless of how West Beach is developed (i.e. hotel, hotel and residential, or residential).
19. **Hotels/Guest Rooms.** If the Property Owner utilizes the RST-2 land Use type for Parcels 2A, 2B, 2C, 2E, 2F, 2I, and 3B in Exhibit 13.5, the Property Owner may construct up to an additional 150 Guest Rooms on those Parcels. If the Property Owner utilizes the RST-1 land Use type for Parcels 6C and 6D in Exhibit 13.5, the Property Owner may construct an additional 175 Guest Rooms on those Parcels. Guest Room



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density for expansion of The Sanctuary will be permitted at 40 Guest Rooms per acre. The total combined number of new Guest Rooms and Bedrooms at West Beach (Parcel 2) shall not exceed 340. The total combined number of new Guest Rooms and Bedrooms at East Beach (Parcel 6) shall not exceed 670. These caps of 340 Bedrooms and Guest Rooms at West Beach and 670 at East Beach apply regardless of the total acreage of the respective Parcels and regardless of the total number of Dwelling Units that are permissible on that acreage.

20. **Development Schedule for The Project.**

- (a) Commencement date. The Project will be deemed to have commenced on the Effective Date.
- (b) Completion dates. Because of existing market uncertainties, it is impossible for the Property Owner to project accurately a development schedule including commencement dates and interim completion dates. Nevertheless, the Property Owner shall in good faith, subject to existing market uncertainties, attempt to develop the Project in accordance with the following percentages of the potential Development described in this Agreement:

YEAR	% COMPLETE
5	35%
10	75%

The Parties recognize that actual Development may be more or less than these estimates. The failure of the Property Owner to meet this estimate of percentage completion shall not, in and of itself, constitute a material breach of this Agreement.

- 21. **Term of the Agreement.** This Agreement shall expire ten years after the Effective Date on October 5, 2020. The date of the expiration of the term of this Agreement is the "Termination Date." The Parties recognize that, in light of existing uncertain market conditions, it may make economic sense and be reasonable for the Property Owner to refrain from proceeding with certain Development of the Parcels until an indeterminate time in the future. For this reason, the Parties agree that Property Owner is relying on the Town's acknowledgment that Property Owner has the right to seek an amendment to this Agreement in the future to extend the term of the Agreement. The Town agrees to act on any such proposed amendment in a fair and equitable manner, and recognizes the Property Owner's reliance on the Town's agreement to do so. The Parties both recognize and expressly acknowledge that the purpose of this Agreement (and development agreements in general as expressed in Section 6-31-310 S.C. Code) is to encourage Property Owner to proceed with Development and to afford Property Owner certainty as

financial commitments necessary for such Development.

22. **Amending or Canceling The Agreement.** Subject to the provisions of section 6-31-80 of the South Carolina Code, this Agreement may be amended or canceled in whole or in part only by mutual consent of the Parties in writing or by their successors in interest and, in the case of the Property Owner, its successors in title.
23. **Modifying or Suspending The Agreement.** In the event state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, the pertinent provisions of this Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.
24. **Periodic Review.** The Planning Director shall review the Project and this Agreement at least every twelve (12) months, at which time the Property Owner shall demonstrate good faith compliance with the terms of this Agreement. If, as a result of its periodic review, the Town reasonably and fairly finds and determines that the Property Owner has committed a material breach of the terms or conditions of this Agreement, the Town shall serve notice in writing upon the Property Owner setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the Property Owner a reasonable time in which to cure the material breach. If the Property Owner fails to cure any material breach within a reasonable time based on the nature of the alleged breach, then the Town unilaterally may terminate or modify this Agreement; provided, that the Town has first given the Property Owner the opportunity: (1) to rebut the Town's finding and determination; or (2) to consent to amend this Agreement to meet the concerns of the Town with respect to the findings and determinations.
25. **Severability.** Subject to the provisions of section 6-31-150 of the South Carolina Code, if any word, phrase, sentence, paragraph or provision of this Agreement shall be finally adjudicated to be invalid, void, or illegal, it shall be deleted and in no way affect, impair, or invalidate any other provision hereof.
26. **Merger.** This Agreement, coupled with the Exhibits attached hereto, which are incorporated herein by reference, shall state the final and complete expression of the Parties' intentions. The Parties hereto agree to cooperate with each other to effectuate the provisions of this Agreement and to act reasonably and expeditiously in all performances required under the Agreement. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the Parties hereby agree to cooperate in defending such action.
27. **Conflicts of Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of South Carolina.

28. **Remedies.** Each Party recognizes that the other Party would suffer irreparable harm from a material breach of this Agreement and that no adequate remedy at law exists to enforce this Agreement. Consequently, the Parties agree that any non-breaching Party who seeks enforcement of the Agreement is entitled to the remedies of injunction and specific performance but not to any other legal or equitable remedies including, but not limited to, damages; provided, however, that Property Owner shall not forfeit its right to just compensation for any violation by the Town of the Property Owner's Fifth Amendment rights. The Town will look solely to the Property Owner as to any rights it may have against the Property Owner under this Agreement, and hereby waives any right to assert claims against Property Owner's members, managers, officers, directors, employees, agents, attorneys and consultants, and further agrees that no member, manager, officer, director, employee, agent, attorney or consultant, of the Property Owner has any personal liability under this Agreement. Likewise, the Property Owner agrees to look solely to the Town's assets as to any rights it may have against the Town under this Agreement, and hereby waives any right to assert claims for personal liability against individuals acting on behalf of the Town, its mayor, Town Council members, agencies, boards, or commissions.
29. **Recording.** Within fourteen days after execution of this Agreement, the Property Owner shall record the Agreement with the Charleston County Register of Mesne Conveyance. The burdens of this Agreement are binding upon, and the benefits of this Agreement shall inure to, all successors in interest and assigns of the Parties to this Agreement.
30. **Third Parties.** Notwithstanding any provision herein to the contrary, this Agreement shall not be binding and shall have no force or effect as to persons or entities who are not Parties or successors or assigns to this Agreement.
31. **Intentionally Omitted.**
32. **Town Determinations Relating to the Project.** Town Council has approved the Project under the process set forth in section 6-31-50 of the South Carolina Code and the Development Agreement procedures set forth in section 12A-506 of the Zoning Ordinance on the terms and conditions set forth in this Agreement.
33. **Successors and Assigns.**
- (a) **Binding Effect.** This Agreement shall be binding on the successors and assigns of the Property Owner in the ownership or Development of any portion of the Real Property or the Project. A purchaser, lessee or other successor in interest or successor in title to any portion of the Real Property shall be responsible for performance of the Property Owner's obligations hereunder as to the portion of the Real Property so transferred. The Property Owner shall not be required to notify the Town or obtain the Town's consent with regard to the sale of Lots in single family residential subdivisions, or condominiums or other Dwelling Units,

or Lots in commercial areas which have been platted and approved in accordance with the terms of this Agreement. The Property Owner shall be released from obligations as to the sale of individual Lots in single family subdivisions, or condominiums or other Dwelling Units, and individual pad sites in commercial areas. This Agreement shall also be binding on the Town and all future Town Councils for the duration of this Agreement, even if the Town Council members and/or mayor change.

- (b) Transfer of Project. The Property Owner shall be entitled to transfer any portion or all of the Real Property to a purchaser(s), subject to the following exceptions:
- (i) Transfer of Facility and Service Obligations. If the Property Owner transfers any portion of the Real Property on which the Property Owner is required to provide and/or construct certain Facilities or provide certain services, distinct from those provided throughout the Project and which are site-specific to the portion of the Real Property conveyed, then the Property Owner shall be required to obtain a separate written assumption agreement from the purchaser expressly assuming all such separate responsibilities and obligations with regard to the land conveyed, shall provide a copy of the separate assumption agreement to the Town, and shall be required to obtain the Town's consent to the separate written assumption agreement, which shall not be unreasonably withheld (any refusal to consent shall be fair and commercially reasonable). The failure of the Town to respond in writing within 10 days of written notice shall be deemed to constitute its consent to the assumption agreement. Upon such consent to the assumption agreement and conveyance to the purchaser, the Property Owner shall be released from the obligations under this Agreement with respect to the portion of the Real Property conveyed. If the Town does not consent to the assumption for reasons that are fair and commercially reasonable, Property Owner shall be entitled to proceed with the conveyance but shall remain jointly responsible for the site-specific Facilities or services.
  - (ii) Assignment of Development Rights. Any and all conveyances of any portion of the Real Property other than individual Lots and Dwelling Units, by deed or covenant running with the land, assign a precise number of Dwelling Units, Guest Rooms, and/or Commercial Square Footage to the tract conveyed.
  - (iii) Mortgage Lenders. Notwithstanding anything to the contrary contained herein, the exceptions to transfer contained in this Paragraph 33(b) shall not apply: (i) to any mortgage lender either as the result of foreclosure of any mortgage secured by any portion of the Real Property or any other transfer in lieu of foreclosure; (ii) to any third party purchaser at such a

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foreclosure; or (iii) to any third party purchaser of such mortgage lender's interest subsequent to the mortgage lender's acquiring ownership of any portion of the Real Property as set forth above. Furthermore, nothing contained herein shall prevent, hinder or delay any transfer of any portion of the Real Property to any such mortgage lender or subsequent purchaser. Except as set forth herein, any such mortgage lender or subsequent purchaser shall be bound by and shall receive the benefits from this Agreement as the successor in title to the Property Owner in accordance with Paragraph 6 hereof.

- (c) Release of Property Owner. In the event of the sale or other conveyance of all or a portion of the Real Property and compliance with the conditions set forth therein, the Property Owner shall be released from any further obligations with respect to this Agreement as to the portion of the Real Property so transferred, and the transferee shall be substituted as the Property Owner under the Agreement as to the portion of the Real Property so transferred.
- (d) Estoppel Certificate. Upon request in writing from an assignee or the Property Owner to the Town sent by certified or registered mail or publicly licensed message carrier, return receipt requested, the Town will provide a certificate in recordable form that, solely with respect to the portion of the Real Property described in the request, there are no violations or breaches of this Agreement, except as otherwise described in the certificate. The Town will respond to such a request within ninety (90) days of the receipt of the request, and may employ such professional consultants, municipal, county and state agencies and staff as may be necessary to assure the truth and completeness of the statements in the certificate. The reasonable costs and disbursements of private consultants will be paid by the person making the request. The certificate issued by the Town will be binding on the Town in accordance with the facts and statements contained therein as of its date and may be relied upon by all persons having notice thereof. No claim or action to enforce compliance with this Agreement may be brought against the Property Owner or its assignees properly holding rights hereunder, alleging any violation of the terms and covenants affecting such portion of the Real Property except as otherwise described in the certificate. If the Town does not respond to such request within ninety (90) days of the time of its receipt, the portion of the Real Property described in the request will be deemed in compliance with all of the covenants and terms of this Agreement. A certificate of such conclusion may be recorded by the Property Owner, including a copy of the request and the notice of receipt and it shall be binding on the Town as of its date. Such notice shall have the same effect as a Certificate issued by the Town under this Paragraph 33 (d).

34. **General Terms and Conditions.**

- (a) Agreements to Run with the Land. This Agreement shall be recorded against the Real Property as described in Exhibit 4.1. The agreements contained herein shall be deemed to run with the land. The burdens of this Agreement are binding upon, and the benefits of the Agreement shall inure to, all successors in interest to the Parties to the Agreement.
- (b) Construction of Agreement. This Agreement should be construed so as to effectuate the public purpose of settlement of disputes, while protecting the public health, safety and welfare, including but not limited to ensuring the adequacy of Facilities and compatibility between the Real Property and the other Development on Kiawah Island.
- (c) Mutual Releases. At the time of, and subject to, (a) the expiration of any applicable appeal period with respect to the approval of this Agreement without any appeal having been filed or (b) the final determination of any court upholding this Agreement, whichever occurs later, and excepting the Parties' respective rights and obligations under this Agreement, the Property Owner, on behalf of itself and the Property Owner's members, managers, officers, directors, employees, agents, attorneys and consultants, hereby releases the Town and the Town's council members, officials, employees, agents, attorneys and consultants, and the Town, on behalf of itself and the Town's council members, officials, employees, agents, attorneys and consultants, hereby releases the Property Owner and the Property Owner's members, managers, officers, directors, employees, agents, attorneys and consultants, from and against any and all claims, demands, liabilities, costs, expenses of whatever nature, whether known or unknown, and whether liquidated or contingent, arising on or before the date of this Agreement in connection with the Real Property or the application, processing or approval of the Project; provided, however, that each Party shall not be released from its continuing obligation to comply with applicable Laws, including the Town's Land Development Regulations, as amended by this Agreement.
- (d) State and Federal Law. The Parties agree, intend and understand that the obligations imposed by this Agreement are only such as are consistent with state and federal law. In the event state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, the provisions of this Agreement shall be modified or suspended as may be necessary to comply with state or federal laws or regulations. The Parties further agree that if any provision of this Agreement is declared invalid, this Agreement shall be deemed amended to the extent necessary to make it consistent with state or federal law, as the case may be, and the balance of the Agreement shall remain in full force and effect.

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- (e) No Waiver. Failure of a Party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such Party to exercise at some future time said right or any other right it may have hereunder. No officer, official or agent of the Town has the power to amend, modify or alter this Agreement or waive any of its conditions as to bind the Town by making any promise or representation not contained herein. Any amendments are subject to Paragraph 22 herein.
  - (f) Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Agreement may not be modified or amended except in writing mutually agreed to and accepted by both Parties to this Agreement.
  - (g) Attorneys' Fees. Should any Party hereto employ an attorney for the purpose of enforcing this Agreement, or any judgment based on this Agreement, for any reason or in any legal proceeding whatsoever, including insolvency, bankruptcy, arbitration, declaratory relief or other litigation, including appeals or re-hearings, the prevailing Party shall be entitled to receive from the other Party thereto reimbursement for all reasonable attorneys' fees and all costs and expenses. Should any judgment or final order be issued in that proceeding, said reimbursement shall be specified therein.
  - (h) Notices. All notices hereunder shall be given in writing by certified mail, postage prepaid, at the following addresses:

To the Town:

Mayor of Kiawah Island  
Town Hall  
21 Beachwalker Drive  
Kiawah Island, SC 29455

With copies to:

County Planning Director  
Lonnie Hamilton Public Services Building  
4045 Bridge View Drive  
N. Charleston, SC 29405

Dennis J. Rhoad, Esq.  
123 W. Main Street  
Moncks Corner, SC 29461

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To the Property Owner:  
Kiawah Island Golf Resort  
One Sanctuary Beach Drive  
Kiawah Island, SC 29455  
Phone: 843-768-5826  
Fax: 843-768-5815  
E-mail: roger\_warren@kiawahresort.com

With copies to:  
William Goodwin  
CCA Industries  
1 James Ctr  
Richmond, VA 23219-4089  
Phone: (804) 643-4200

- (i) Execution of Agreement. This Agreement may be executed in multiple parts as originals or by facsimile copies of executed originals; provided, however, if executed and evidence of execution is made by facsimile copy, then an original shall be provided to the other party within seven (7) days of receipt of said facsimile copy.
- (j) Disputes in Interpretation. If the Town and the Property Owner disagree as to the interpretation and/or meaning of this Agreement, they agree that they shall have their respective representatives meet over the course of a week in an effort to resolve such difference. If their representatives are unable to agree, the Parties shall within a week select a third person to mediate the dispute. The mediation shall be held promptly (no later than one week after the mediator is selected). If the Parties are unable to resolve the dispute through mediation, the Parties shall within a week select a third person to arbitrate the dispute. The arbitrator shall be an attorney well versed and experienced in land use matters. The arbitration shall be conducted as soon as reasonably possible. The arbitration shall include a hearing conducted by the arbitrator in which the Parties shall have the right to make their arguments, present evidence, cross examine witnesses and to invoke such other procedures as normally attend an arbitration proceeding. The arbitrator's award shall be final and binding.

**IN WITNESS WHEREOF**, the Parties hereto have executed and delivered this Development Agreement, and by their seals do affirm such execution and delivery, on the day and year first above written.



WITNESSES (AS TO TOWN):

TOWN OF KIAWAH ISLAND ("TOWN")

Tamika Rucker

By: Dee Weir (SEAL)  
Its: Mayor

Dwight Lames

Attest:  
Stephan Bruehl (SEAL)  
Clerk of Council

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WITNESSES (AS TO ALL ON THIS PAGE):

*Sue Young*

*Melissa Hammond*

KIAWAH REAL ESTATE COMPANY, LLC  
a Virginia limited liability company

By: *Roger M. Warren* (Seal)  
Name: Roger M. Warren  
Title: Vice-President

KIAWAH ISLAND INN COMPANY, LLC  
a Virginia limited liability company

By: *Roger M. Warren* (Seal)  
Name: Roger M. Warren  
Title: Vice-President

KIAWAH TENNIS CLUB, LLC  
a Virginia limited liability company

By: *Roger M. Warren* (Seal)  
Name: Roger M. Warren  
Title: Vice-President

COUGAR POINT GOLF COMPANY, LLC  
a Virginia limited liability company

By: *Roger M. Warren* (Seal)  
Name: Roger M. Warren  
Title: Vice-President

TURTLE POINT GOLF COMPANY, LLC  
a Virginia limited liability company

By: *Roger M. Warren* (Seal)  
Name: Roger M. Warren  
Title: Vice-President

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WITNESSES (AS TO ALL ON THIS PAGE):

*Sara Younger*

*Melissa Hammond*

OSPREY POINT GOLF COMPANY, LLC  
a Virginia limited liability company

By: *Roger M. Warren* (Seal)  
Name: Roger M. Warren  
Title: Vice-President

THE OCEAN COURSE GOLF CLUB, LLC  
a Virginia limited liability company

By: *Roger M. Warren* (Seal)  
Name: Roger M. Warren  
Title: Vice-President

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STATE OF SOUTH CAROLINA )  
 ) ACKNOWLEDGEMENT  
COUNTY OF CHARLESTON )

THE FOREGOING INSTRUMENT was acknowledged before me by KIAWAH REAL ESTATE COMPANY, LLC, by Roger M. Warren, its Vice President, this 11 day of October, 2010.

Ram M. Galboone (SEAL)  
Notary Public for South Carolina  
My Commission Expires: **My Commission Expires  
March 12, 2011**

---

STATE OF SOUTH CAROLINA )  
 ) ACKNOWLEDGEMENT  
COUNTY OF CHARLESTON )

THE FOREGOING INSTRUMENT was acknowledged before me by KIAWAH ISLAND INN COMPANY, LLC, by Roger M. Warren, its Vice President, this 11 day of October, 2010.

Ram M. Galboone (SEAL)  
Notary Public for South Carolina  
My Commission Expires: **My Commission Expires  
March 12, 2011**

---

STATE OF SOUTH CAROLINA )  
 ) ACKNOWLEDGEMENT  
COUNTY OF CHARLESTON )

THE FOREGOING INSTRUMENT was acknowledged before me by KIAWAH TENNIS CLUB, LLC, by Roger M. Warren, its Vice President, this 11 day of October, 2010.

Ram M. Galboone (SEAL)  
Notary Public for South Carolina  
My Commission Expires: **My Commission Expires  
March 12, 2011**

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Exhibit 1.1: Definitions

The "Act" means the South Carolina Local Government Development Agreement Act, codified at sections 6-31-10 to -160 of the South Carolina Code.

"Agreement" means this Development Agreement, including the recitals and exhibits attached hereto.

"Bedroom" means a room in a Dwelling Unit designed and intended as a residential bedroom.

"Bldg 3-7" means any building with a minimum of 3 and no greater than 7 Dwelling Units. Dwelling Units within such a building may be separately owned and conveyed.

"Building Height" means elevation from Ground Floor Level as measured in feet and stories. Building Height does not include chimneys, antennae or ventilation pipes. Building Height in stories is the number of habitable floors (stories) exclusive of the area below the first finished floor. One-half story is a habitable floor which has heated square footage that is no greater than one-half the heated square footage of the largest story.

"Building Development Standards" means standards for the area, width, building coverage, building setback, Building Height, and yard requirements for Lots or Development Parcels.

"Comprehensive Plan" means the Town of Kiawah Island Comprehensive Plan, adopted pursuant to sections 6-29-510 to -540 of the South Carolina Code, as well as the official map of the Town of Kiawah Island, adopted pursuant to sections 6-7-1210 to -1280 of the South Carolina Code.

"Density" means the number of Dwelling Units per acre. Parcel Density equals the number of Dwelling Units divided by the gross acreage above mean high water, excluding Fresh Water and Salt Water Wetlands.

"Development" means the planning for or carrying out of a building activity, the making of a material change in the use or appearance of any structure or property, or the dividing of land into three or more parcels, and is intended by the Parties to include all uses of, activities upon or changes to the Real Property as authorized by this Agreement. "Development," as designated in a land or development permit, includes the planning for and all other activity customarily associated with it unless otherwise specified. When appropriate to the context, "Development" refers to the planning for or the act of developing or to the result of development. Reference to a specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of this term.

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“Development Parcel” means any tract of land on which Development may occur, including platted Lots and unplatted parcels, but excluding street rights-of-ways.

“Development Permit” includes a building permit, zoning permit, subdivision approval, rezoning certification, special exception, variance, certificate of occupancy or any other official action of Local Government having the effect of permitting the Development or use of property.

“DHEC” means the Department of Health and Environmental Control, as established pursuant to section 44-1-20 of the South Carolina Code.

“ Dwelling Unit ” means one or more rooms, designed, occupied or intended for permanent occupancy as a separate living quarter, with cooking, sleeping and sanitary facilities contained therein. The term “ Dwelling Unit ” does not include Guest Rooms or accessory buildings or structures.

“ Facilities ” means major capital or community improvements including, but not limited to, transportation, sanitary sewer, solid waste, drainage, and potable water. The Property Owner is specifically exempted from any Town requirement for the provision of facilities relating to public education, public health systems and facilities, libraries, public housing, jails and other detention sites, courts, police and trash or garbage disposal sites.

“ Fresh Water and Salt Water Wetlands ” means those properties with elevations below the mean high water line, and properties within a pond, lagoon or other Water Bodies.

“ Ground Floor Level ” means Natural Ground or the lowest floor elevation for structures as set forth in the Town of Kiawah’s floodplain management ordinance as amended, whichever is higher; provided, however, that Ground Floor Level shall not exceed 14 feet above Natural Ground. This definition shall not be construed to prevent an owner from constructing his first finished floor higher than Ground Floor Level, provided, however, Building Height is measured from Ground Floor Level.

“ Guest Rooms ” means a hotel room or suite designed for occupancy as a single unit.

“ Land Development Regulations ” means ordinances and regulations enacted by the appropriate governing body for the regulation of any aspect of Development and included Local Government zoning, rezoning, subdivision, building construction, occupancy or sign regulations or any other regulations controlling the Development or use of property.

“ Laws ” means all ordinances, resolutions, regulations, comprehensive plans, Land Development Regulations, policies and rules, custom and usage (formal or informal) adopted by a Local Government affecting the Development of property and includes laws governing permitted uses of the property, governing density, and governing design,

improvement and construction standards and specifications, except as provided in section 6-31-140(A) of the South Carolina Code.

“Local Government” means any county, municipality, special district, or governmental entity of the state, county, municipality, or region established pursuant to law which exercises regulatory authority over, and grants Development Permits for, land Development or which provides public Facilities.

“Lot” means Development Parcel identified in a Subdivision Plat recorded in Charleston County RMC Office.

“OCRM” means DHEC’s Office of Ocean and Coastal Resource Management.

“Natural Ground” means the average elevation of a Lot or Development Parcel prior to Development activity.

“Parties” are the Property Owner and the Town.

“Parcel” shall mean and refer to each of the eleven (11) separately numbered areas of land owned by Property Owner as shown on Exhibit 13.5 to the Agreement. Each numbered Parcel shall constitute a separate Parcel for purposes of this Agreement even if comprised of more than one tax map identification parcel.

“Planning Commission” means the Town of Kiawah Island Planning Commission, created and established pursuant to section 12A-105 of the Zoning Ordinance.

“Planning Director” means the Town of Kiawah Island Planning Director or the authorized designee or representative of the Planning Director.

“Project” is the Development that has occurred and will occur on the Real Property.

“Property Owner” means Kiawah Real Estate Company, LLC; Kiawah Island Inn Company, LLC; Kiawah Tennis Club, LLC; Cougar Point Golf Company, LLC; Turtle Point Golf Company, LLC; Osprey Point Golf Company, LLC; and The Ocean Course Golf Club, LLC, together with all subsidiaries thereof and other entities, which have a legal interest on the date of execution hereof in any of the Real Property as described in Paragraph 4 of the Agreement and includes their successors in interest or successors in title and/or assigns by virtue of assignment or other instrument pursuant to Paragraph 33 of the Agreement. The Property Owner warrants that there are no other legal or equitable owners of the Real Property on the Effective Date.

“Real Property” is the real property referred to in Paragraph 4 of the Agreement and includes any improvements or structures customarily regarded as part of real property.

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“Subdivision Plat” means a recorded graphic description of property prepared and approved in compliance with the Town’s Subdivision Regulations, codified in Article 12C of the Zoning Ordinance.

“Town” is the Town of Kiawah Island, South Carolina, a municipal corporation organized and existing under the laws of the State of South Carolina.

“Town Council” means the Town Council of the Town of Kiawah Island, South Carolina.

“Town Ordinances” means the Code of Ordinances of the Town of Kiawah Island, South Carolina.

“Water Body” means property determined to be under water no less than eleven (11) months of the year and under such standing water for a continuous period of no less than nine (9) months of the year.

“Zoning Ordinance” means the Zoning Ordinance or Zoning Regulations of the Town of Kiawah Island, South Carolina.

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**Exhibit 4.1: Legal Description**

**Parcel 1 (Mingo Point)**

All that certain piece, parcel, or tract of land, situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, known generally as "Mingo Point," containing 11.253 acres, more or less, and shown and designated as "Tract 1 Lot 1 Mingo Point" on a plat prepared by Coastal Surveying Co., Inc., dated February 22, 1977, last revised on March 8, 1977, and recorded in Plat Book AJ at page 47, in the R.M.C. Office, and more recently shown on a plat prepared by Southeastern Surveying, Inc., entitled "A Boundary Survey of Mingo Point Owned by Kiawah Resort Associates, L.P. Located in the Town of Kiawah Island, Charleston County, South Carolina" dated November 13, 1997, and recorded in Plat Book EC at page 173, in the R.M.C. Office, said parcel having such location, butts and bounds, metes, courses, and distances as will by reference to said plats more fully appear.

Tax Map Parcel No. 207-00-00-009

**Parcel 2A (West Beach Village Inn/Reception)**

All that certain piece, parcel, or tract of land with the buildings and improvements thereon, situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, known generally as a part of "The Kiawah Inn" and shown as "Parcel D" containing 6.932 acres on a plat entitled "A Plat Of A 5.353 Acre Tract And A 6.932 Acre Tract Owned By Kiawah Resort Associates Located In The Town of Kiawah Island Charleston, South Carolina" dated June 9, 1988, and having latest revision date of February 6, 1989, and recorded in Plat Book BV at Page 39 in the R.M.C. Office for Charleston County, S.C., said property having such location, butts, bounds, metes, courses and distances as will by reference to said plat more fully appear.

Tax Map Parcel No. 207-06-00-232

**Parcel 2B (West Beach Village Lagoon Rooms)**

All that certain piece, parcel, or tract of land with the buildings and improvements thereon, situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, shown and designated as "Parcel G" on a plat by Southeastern Surveying, Inc., entitled "A Plat Of A 3.670 Acre Tract And A 0.967 Acre Tract Owned By Kiawah Resort Associates Located In The Town Of Kiawah Island, Charleston County, South Carolina," dated June 16, 1988, having latest revision date of February 6, 1989, and recorded in Plat Book BV at Page 040, in the RMC Office for Charleston County, South Carolina, said property having such location, butts, bounds, metes, courses and distances as will by reference to said plat more fully appear.

Tax Map Parcel No. 207-06-00-401

**Parcel 2C (West Beach Village Strawmarket)**

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All that certain piece, parcel or tract of land, with the buildings and improvements thereon, situate, lying and being on Kiawah Island, Charleston County, South Carolina, shown and designated as Parcel "D-1", on a plat prepared by Williams & Associates entitled "Plat of: Parcel 'D-1', A 1.187 Acre Tract Subdivided From Parcel "D" Within The Original Resort Complex Boundary Located on Kiawah Island Charleston County, South Carolina Owned by Kiawah Island Co. Limited", having latest revision dated September 1, 1981, and recorded in Plat Book AT at Page 169, in the R.M.C. Office for Charleston County, South Carolina, said property having such location, butts, bounds, metes, courses and distances as will by reference to said plat more fully appear.

Tax Map Parcel No. 207-06-00-399

**Parcel 2D (West Beach Village Dunefield)**

All that certain piece, parcel, or tract of land with the improvements thereon, situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, known generally as a part of "The Kiawah Inn" and shown as "Parcel E" containing 5.353 acres on a plat entitled "A Plat Of A 5.353 Acre Tract And A 6.932 Acre Tract Owned By Kiawah Resort Associates Located In The Town of Kiawah Island Charleston, South Carolina" dated June 9, 1988, and having latest revision date of February 6, 1989, and recorded in Plat Book BV at Page 39 in the R.M.C. Office for Charleston County, S.C., said property having such location, butts, bounds, metes, courses and distances as will by reference to said plat more fully appear.

Tax Map Parcel No. 207-06-00-407

**Parcel 2E (West Beach Village Support Buildings)**

All that certain piece, parcel, or tract of land with the buildings and improvements thereon, situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, shown and designated as "1.912 Ac." on a plat by Southeastern Surveying, Inc., entitled "A Plat Of A 1.912 Ac. Tract Owned By Kiawah Resort Associates Located In The Town Of Kiawah Island, Charleston County, South Carolina." dated January 12, 1989, having latest revision date of January 23, 1989, and recorded in Plat Book BV at Page 041, in the RMC Office for Charleston County, South Carolina, said property having such location, butts, bounds, metes, courses and distances as will by reference to said plat more fully appear.

Tax Map Parcel No. 207-06-00-404

**Parcel 2F (West Beach Village Cub Conference)**

All that certain piece, parcel, or tract of land with the buildings and improvements thereon, situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, shown and designated as "Club Conference Facility 1.701 Ac." on a plat by Southeastern Surveying, Inc., entitled "A Plat Of A 1.701 Acre Tract Owned By Kiawah Resort Associates Located In The Town Of Kiawah Island, Charleston County, South Carolina," dated January 11, 1989, having latest revision date of February 9, 1989, and recorded in Plat Book BV at Page 042,

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in the RMC Office for Charleston County, South Carolina, said property having such location, butts, bounds, metes, courses and distances as will by reference to said plat more fully appear.

Tax Map Parcel No. 207-06-00-405

**Parcel 2G (West Beach Village Sparrow Pond)**

All that certain piece, parcel, or tract of land with the buildings and improvements thereon, situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, shown and designated as "Parcel F" on a plat by Southeastern Surveying, Inc., entitled "A Plat Of A 3.670 Acre Tract And A 0.967 Acre Tract Owned By Kiawah Resort Associates Located In The Town Of Kiawah Island, Charleston County, South Carolina," dated June 16, 1988, having latest revision date of February 6, 1989, and recorded in Plat Book BV at Page 040, in the RMC Office for Charleston County, South Carolina, said property having such location, butts, bounds, metes, courses and distances as will by reference to said plat more fully appear.

Tax Map Parcel No. 207-06-00-406

**Parcel 2H (West Beach Village Tennis Center)**

All that certain piece, parcel, or tract of land with the buildings and improvements thereon, situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, shown and designated as "5.483 Ac." on a plat by Southeastern Surveying, Inc., entitled "A Plat Of A 5.483 Ac. Tract Owned By Kiawah Resort Associates Located In The Town Of Kiawah Island, Charleston County, South Carolina," dated January 11, 1989, having latest revision date of February 3, 1989, and recorded in Plat Book BV at Page 043, in the RMC Office for Charleston County, South Carolina, said property having such location, butts, bounds, metes, courses and distances as will by reference to said plat more fully appear.

Tax Map Parcel No. 207-06-00-402

**Parcel 2I (West Beach Village Tennis Parking)**

All that certain piece, parcel, or tract of land with the buildings and improvements thereon, situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, shown and designated as "0.714 Ac." on a plat by Southeastern Surveying, Inc., entitled "A Plat Of A 0.714 Acre Tract Owned By Kiawah Resort Associates Located In The Town Of Kiawah Island, Charleston County, South Carolina," dated February 21, 1989, having latest revision date of March 20, 1989, and recorded in Plat Book BV at Page 044, in the RMC Office for Charleston County, South Carolina, said property having such location, butts, bounds, metes, courses and distances as will by reference to said plat more fully appear.

Tax Map Parcel No. 207-06-00-403

**Parcels 3A and 3B (Cougar Point Golf Course and Clubhouse)**



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All those certain pieces, parcels, or tracts of land situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, containing 123.653 Acres, more or less, and shown on a plat by Southeastern Surveying, Inc., entitled "A Plat Of Marsh Point Golf Course Being a 123.653 Acre Tract of Land Owned By Kiawah Resort Associates Located In The Town Of Kiawah Island, Charleston County, South Carolina," dated January 10, 1989, having latest revision date of February 6, 1989, and recorded in Plat Book BV at Pages 024, 025, 026, 027, 028, 029, 030, and 031, in the RMC Office for Charleston County, South Carolina, said property having such location, butts, bounds, metes, courses and distances as will by reference to said plat more fully appear.

Tax Map Parcel No. 207-00-00-017

**Parcel 3C (Cougar Point Golf Maintenance)**

All that certain piece, parcel, or tract of land situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, shown on a plat by Southeastern Surveying, Inc., entitled, in part, "A Plat Showing Boundary Line Adjustment of A 1.499 Acre Tract," dated January 26, 1990, having latest revision date of October 4, 1990, and recorded in Plat Book CB at Page 014, in the RMC Office for Charleston County, South Carolina, said property having such location, butts, bounds, metes, courses and distances as will by reference to said plat more fully appear.

Tax Map Parcel No. 207-06-00-013

**Parcel 4A (Utility Tract Telephone Building)**

All that certain piece, parcel, or tract of land with the building and improvements located thereon, situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, shown and designated as "Telephone Office Building Tract 0.587 Acres" on a plat by Davis & Floyd, Inc., entitled "Plat Showing Telephone Office Building Property of Kiawah Resort Associates Located In Utility Tract Town Of Kiawah Island, Charleston County, S.C." dated February 6, 1989, and recorded in Plat Book BU at Pages 160 and 161, in the RMC Office for Charleston County, South Carolina, said property having such location, butts, bounds, metes, courses and distances as will by reference to said plat more fully appear.

Tax Map Parcel No. 209-01-00-121

**Parcel 4B (Utility Tract Laundry/Commissary)**

All that certain piece, parcel, or tract of land situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, containing 3.314 acres, more or less, and shown on a plat by Davis & Floyd, Inc., entitled, "Plat Showing Parcel #1 Property of Kiawah Resort Associates About to Be Combined With Laundry & Commissary Tract TMS 209-01-00-122," dated June 29, 1989, having latest revision date of October 4, 1990, and recorded in Plat Book CB at Page 015, in the RMC Office for Charleston County, South Carolina, said property having

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such location, butts, bounds, metes, courses and distances as will by reference to said plat more fully appear.

Tax Map Parcel No. 209-01-00-122

**Parcel 4C (Utility Tract Warehouse)**

All that certain piece, parcel, or tract of land situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, containing 2.088 acres, more or less, and shown on a plat by Davis & Floyd, Inc., entitled, "Plat Showing Parcel #1 & Parcel #2 Property of Kiawah Resort Associates About to Be Combined With Warehouse Tract TMS 209-01-00-098," dated June 29, 1989, having latest revision date of October 4, 1990, and recorded in Plat Book CB at Page 016, in the RMC Office for Charleston County, South Carolina, said property having such location, butts, bounds, metes, courses and distances as will by reference to said plat more fully appear.

Tax Map Parcel No. 209-05-00-098

**Parcel 5 (East Beach Ocean)**

All that certain piece, parcel or tract of land situate, lying and being in the Town of Kiawah Island, Charleston County, State aforesaid, containing 3.054 acres, more or less, and shown and designated as "Tract F" on a plat prepared by Southeastern Surveying, Inc., entitled "A BOUNDARY PLAT OF TRACT F BEING 3.054 ACRES OWNED BY KIAWAH RESORT ASSOCIATES, L.P. LOCATED IN THE TOWN OF KIAWAH ISLAND, CHARLESTON COUNTY, SOUTH CAROLINA" dated March 11, 1997, and recorded in Plat Book EB, at page 679, in the R.M.C. Office for Charleston County, S.C., said property having such location, butts and bounds, metes, courses and distances as will by reference to said plat more fully appear.

Tax Map Parcel No. 209-07-00-126

**Parcel 6A (East Beach Village Town Center)**

All that certain piece, parcel or tract of land, together with any buildings and improvements thereon, situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, and shown and designated as "Tract A", "Tract B", "Tract C", "Tract D", and "1.041 Ac.", on a plat by Southeastern Surveying, Inc., entitled "A Combination Plat of Parcel 'A', 'B', 'C', 'D', And A 1.041 Acre Tract of Town Center and Conference Facilities Into a 10.507 Acre Tract of Land" dated February 2, 1989, having latest revision dated October 4, 1990, and recorded in Plat Book CB, at page 013, in the R.M.C. Office for Charleston County, S.C., said property having such location, butts and bounds, metes, courses and distances as will by reference to said plat more fully appear.

Tax Map Parcel No. 209-07-00-105

**Parcel 6B (East Beach Village Tennis Center)**

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All that certain piece, parcel or tract of land, together with any buildings and improvements thereon, situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, and shown and designated as "East Beach Tennis Center 8.479 Ac.", on a plat by Southeastern Surveying, Inc., entitled "A Plat Of An 8.479 Acre Tract Owned By Kiawah Resort Associates Located In The Town Of Kiawah Island, Charleston County, South Carolina" dated January 11, 1989, having latest revision dated February 9, 1989, and recorded in Plat Book BV, at page 050, in the R.M.C. Office for Charleston County, S.C., said property having such location, butts and bounds, metes, courses and distances as will by reference to said plat more fully appear.

Tax Map Parcel No. 264-05-00-002

**Parcels 6C and 6D (East Beach Village Hotel Residual and Hotel)**

All that certain piece, parcel or tract of land, together with any buildings and improvements thereon, situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, and shown and designated as "LANDMARK LAND COMPANY OF CAROLINA, INC. 50.325 AC.", on a plat by Southeastern Surveying, Inc., entitled "A PLAT SHOWING BOUNDARY LINE ADJUSTMENT OF A 50.325 ACRE TRACT OWNED BY LANDMARK LAND COMPANY OF CAROLINA, INC. AND A 1.900 ACRE LAGOON OWNED BY KIAWAH RESORT ASSOCIATES AND LANDMARK LAND COMPANY OF CAROLINA, INC. LOCATED IN THE TOWN OF KIAWAH ISLAND, CHARLESTON COUNTY, SOUTH CAROLINA," dated January 6, 1989, having latest revision dated September 17, 1990, and recorded in Plat Book CB, at page 017, in the R.M.C. Office for Charleston County, S.C., said property having such location, butts and bounds, metes, courses and distances as will by reference to said plat more fully appear.

Tax Map Parcel No. 209-07-00-124

**Parcel 7 (Turtle Point Golf)**

All those certain pieces, parcels or tracts of land situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, commonly known as the "Turtle Point Golf Course" containing 133.165 acres, more or less, and shown on a plat by Southeastern Surveying, Inc., entitled "A Plat of Turtle Point Golf Course Being a 133.165 Acre Tract of Land Owned By Kiawah Resort Associates Located In The Town Of Kiawah Island, Charleston County, South Carolina" dated January 1, 1989, having latest revision dated February 6, 1989, and recorded in Plat Book BV, at pages 054, 055, 056, 057, 058, 059, 060, 061, and 062, in the R.M.C. Office for Charleston County, S.C., said property having such location, butts and bounds, metes, courses and distances as will by reference to said plat more fully appear.

Tax Map Parcel No. 207-00-00-018

**Parcel 8 (Turtle Point Maintenance)**

All that certain piece, parcel or tract of land, together with any buildings and improvements thereon, situate, lying and being in the Town of Kiawah Island, Charleston County, South

Carolina. and shown and designated as "Existing Parcel", and also described as "Maintenance Tract 2.872 Ac." on a plat by Southeastern Surveying, Inc., entitled "A Plat of Turtle Point Golf Course Being a 133.165 Acre Tract Owned By Kiawah Resort Associates Located In The Town Of Kiawah Island, Charleston County, South Carolina" dated January 7, 1989, having latest revision dated February 6, 1989, and recorded in Plat Book BV, at page 056, in the R.M.C. Office for Charleston County, S.C., said property having such location, butts and bounds, metes, courses and distances as will by reference to said plat more fully appear.

Tax Map Parcel No. 264-01-00-054

**Parcel 9 (Osprey Point Golf)**

All those certain pieces, parcels, or tracts of land situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, commonly known as the "Osprey Point Golf Course" containing 134.046 Acres, more or less, and shown on a plat by Davis & Floyd, Inc., entitled "Plat showing Osprey Point Golf Course, Property of Kiawah Resort Associates, Located Kiawah Island, Charleston County, S.C.," dated December 25, 1988, and recorded in Plat Book BV at Pages 032, 033, 034, and 035, in the RMC Office for Charleston County, South Carolina, said property having such location, butts, bounds, metes, courses and distances as will by reference to said plat more fully appear.

Tax Map Parcel No. 207-00-00-019

**Parcels 10 and 11 (Ocean Course and Willet Island)**

**Sub Parcel I**

All those certain pieces, parcels, or tracts of land situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, containing 219.92 acres, more or less, and shown on a plat by Davis & Floyd, Inc., entitled "Plat Showing Links Course Tract, Property of Kiawah Resort Associates, Located Kiawah Island, Charleston County, S.C." dated February 6, 1989, having latest revision date of March 27, 1989, and recorded in Plat Book BV at Pages 036 through 038, in the RMC Office for Charleston County, South Carolina, said property having such location, butts, bounds, metes, courses and distances as will by reference to said plat more fully appear.

LESS AND EXCEPT

(1) All that certain piece, parcel, or tract of land situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, containing 25.18 acres, more or less, designated as the "Access Property" and shown on a plat by Davis & Floyd, Inc., entitled "Plat Showing Links Course Tract, Property of Kiawah Resort Associates, Located Kiawah Island, Charleston County, S.C." dated February 6, 1989, having latest revision date of March 27, 1989, and recorded in Plat Book BV at Pages 036 through 038, in the RMC Office for Charleston County, South Carolina, said property having such location,

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butts, bounds, metes, courses and distances as will by reference to said plat more fully appear;

(2) All that certain piece, parcel, or tract of land situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, containing 4.770 acres, more or less, and shown on a plat entitled "A PLAT OF A 4.770 ACRE TRACT OWNED BY LANDMARK LAND COMPANY OF CAROLINA, INC. ABOUT TO BE CONVEYED TO KIAWAH RESORT ASSOCIATES LOCATED ON COUGAR ISLAND, TOWN OF KIAWAH ISLAND, CHARLESTON COUNTY, SOUTH CAROLINA" dated October 4, 1990, having latest revision date of April 3, 1991, and recorded in Plat Book CC at Page 184, in the RMC Office for Charleston County, South Carolina, said property having such location, butts, bounds, metes, courses and distances as will by reference to said plat more fully appear.

(3) All that certain piece, parcel, or tract of land situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, containing 0.063 acres, more or less, and shown on a plat by Southeastern Surveying, Inc., entitled "A BOUNDARY SURVEY OF THE WELL PUMP TRACT OWNED BY LANDMARK LAND COMPANY OF CAROLINA, INC. TO BE CONVEYED TO KIAWAH ISLAND UTILITY COMPANY, INC. LOCATED IN THE TOWN OF KIAWAH ISLAND, CHARLESTON COUNTY, SOUTH CAROLINA" dated April 19, 1991, having latest revision date of September 5, 1991, and recorded in Plat Book CE at Page 096 in the RMC Office for Charleston County, South Carolina, said property having such location, butts, bounds, metes, courses and distances as will by reference to said plat more fully appear.

(4) All those two certain pieces, parcels, or tracts of land situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, containing .052 acres and .001 acres, more or less, and shown on a plat by Southeastern Surveying, Inc., entitled "A PLAT SHOWING A BOUNDARY LINE ADJUSTMENT OF A 0.115 ACRE TRACT A 0.052 ACRE TRACT AND A 0.001 ACRE TRACT OWNED LANDMARK LAND COMPANY OF CAROLINA, INC. ABOUT TO BE CONVEYED TO KIAWAH RESORT ASSOCIATES A 0.005 ACRE TRACT OWNED BY KIAWAH RESORT ASSOCIATES ABOUT TO BE CONVEYED TO LANDMARK LAND COMPANY OF CAROLINA, INC. LOCATED IN THE TOWN OF KIAWAH ISLAND, CHARLESTON COUNTY, SOUTH CAROLINA," dated May 7, 1991, having latest revision date of May 20, 1991, and recorded in Plat Book CE at Page 097, in the RMC Office for Charleston County, South Carolina, said property having such location, butts, bounds, metes, courses and distances as will by reference to said plat more fully appear.

(5) All that certain piece, parcel, or tract of land situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, containing 3.072 acres, more or less, and shown and designated as "NATURAL AREA 3.072 AC." on a plat by Southeastern Surveying, Inc., entitled "A PLAT OF A 3.072 ACRE NATURAL AREA OWNED BY LANDMARK LAND COMPANY OF CAROLINA, INC. LOCATED IN THE TOWN OF KIAWAH ISLAND, CHARLESTON COUNTY, SOUTH CAROLINA" dated

February 4, 1991, having latest revision date of April 29, 1991, a copy of which said plat is attached to that certain Quit Claim Deed by Landmark Land Company of Carolina, Inc., a Delaware corporation, in favor of Kiawah Resort Associates, L.P., a Delaware limited partnership, dated May 12, 1995, and recorded in Book M255 at Page 243 in the RMC Office for Charleston County, South Carolina, said property having such location, butts, bounds, metes, courses and distances as will by reference to said plat more fully appear.

**Sub Parcel II**

All that certain piece, parcel, or tract of land situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, containing 1.923 acres, more or less, and shown on a plat entitled "A PLAT OF A 1.293 ACRE TRACT OWNED BY KIAWAH RESORT ASSOCIATES ABOUT TO BE CONVEYED TO LANDMARK LAND COMPANY OF CAROLINA, INC. LOCATED IN THE TOWN OF KIAWAH ISLAND, CHARLESTON COUNTY, SOUTH CAROLINA," dated February 22, 1990, having latest revision date of November 19, 1990, and recorded in Plat Book CB at Page 169, in the RMC Office for Charleston County, South Carolina, said property having such location, butts, bounds, metes, courses and distances as will by reference to said plat more fully appear.

**Sub Parcel III**

All those certain pieces, parcels, or tracts of land, together with any improvements thereon, situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, and being further shown and delineated on a plat entitled "A COMBINATION PLAT OF A 22.075 ACRE TRACT AND A 1.784 ACRE TRACT OWNED BY KIAWAH RESORT ASSOCIATES ABOUT TO BE CONVEYED TO LANDMARK LAND COMPANY OF CAROLINA, INC. LOCATED IN THE TOWN OF KIAWAH ISLAND, CHARLESTON COUNTY, SOUTH CAROLINA" dated August 20, 1991, said property having such location, butts, bounds, metes, courses and distances as will by reference to said plat more fully appear.

AND

**Sub Parcel IV**

All that certain piece, parcel, or tract of land situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, containing 0.005 acres, more or less, and shown on a plat entitled "A PLAT SHOWING A BOUNDARY LINE ADJUSTMENT OF A 0.115 ACRE TRACT A 0.052 ACRE TRACT AND A 0.001 ACRE TRACT OWNED LANDMARK LAND COMPANY OF CAROLINA, INC. ABOUT TO BE CONVEYED TO KIAWAH RESORT ASSOCIATES A 0.005 ACRE TRACT OWNED BY KIAWAH RESORT ASSOCIATES ABOUT TO BE CONVEYED TO LANDMARK LAND COMPANY OF CAROLINA, INC. LOCATED IN THE TOWN OF KIAWAH ISLAND, CHARLESTON COUNTY, SOUTH CAROLINA," dated May 7, 1991, having latest revision date of May 20, 1991, and recorded in Plat Book CE at Page 097, in the RMC Office for Charleston County, South Carolina, said

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property having such location, butts, bounds, metes, courses and distances as will by reference to said plat more fully appear.

Tax Map Parcel No. 207-00-00-020



## CHAPTER I - GENERAL PROVISIONS

### 12A-101      TITLE

This Ordinance shall be known and may be cited as the Zoning Ordinance or Zoning Regulations of the Town of Kiawah Island, South Carolina ("Zoning Ordinance").

### 12A-102      AUTHORITY AND PURPOSES

This Ordinance is adopted pursuant to the authority conferred by the Code of Laws of South Carolina, Title 6, Chapter 29, the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, and drafted in accordance with an adopted Comprehensive Plan. The purposes of these Zoning Regulations are to protect the health, safety, and general welfare of current and future residents of the Town of Kiawah Island by:

1.      Implementing the vision and goals of the Town of Kiawah Island Comprehensive Plan;
2.      Providing for adequate light, air and open space;
3.      Establishing density of land, avoiding undue concentration of population, and lessening congestion in the streets;
4.      Protecting and preserving scenic, historic, or ecologically sensitive areas;
5.      Implementing land use policies that will preserve the natural character of the Town of Kiawah Island, regulating the density and distributions of populations and the uses of buildings, structures and land for trade, industry, residence, recreation, forestry, conservation, water supply, sanitation, protection against floods, public activities, and other purposes;
6.      Facilitating the adequate provision or availability of transportation, police and fire protection, water, sewage, schools, parks and other recreational facilities, affordable housing, disaster evacuation, and other public services and requirements;
7.      Promoting desirable living;
8.      Protecting property against blight;
9.      Conserving the value of land and buildings;



10. Securing safety from fire, flood, and other damages; and
11. Furthering the public welfare in any other regard specified by Town Council.

### **12A-103      APPLICABILITY**

The provisions of these Zoning Regulations shall apply to all land, property and development in the Town of Kiawah Island, except as expressly provided to the contrary in these Zoning Regulations or except as expressly provided in duly approved development agreements. No development shall be undertaken without prior authorization from the appropriate designated Town official or body pursuant to these Zoning Regulations.

### **12A-104      TOWN COUNCIL**

The Town Council may, from time to time:

1. Amend the number, shape, boundary or area of any zoning district;
2. Amend any regulation pertaining to any zoning district;
3. Amend any section of these Zoning Regulations;
4. Amend the Zoning Map; or
5. Approve the issuance of emergency permits.

### **12A-105      PLANNING COMMISSION**

1. Creation.

The Town of Kiawah Island Planning Commission is hereby created as authorized by Chapter 29, Article 1, Sections 6-29-310 through 6-29-380 of the South Carolina Code.

2. Composition; Appointment and Term of Office of Members.
  - A. The Planning Commission shall consist of seven (7) members to be appointed by the Mayor with the consent of the Town Council. At least five (5) of the members shall be residents of the Town of Kiawah Island. A resident member shall mean a person who resides permanently in the Town of Kiawah Island for not less that eight (8) months of each calendar

year and is registered to vote on Kiawah Island. Of the seven (7) members, the Planning Commission may consist of as many as two (2) members who own property in the Town of Kiawah Island but are not "residents." All members are expected to attend eighty (80%) percent of the scheduled and held meetings each calendar year. The term of office shall be for four (4) years. Any vacancy shall be filled for the unexpired term by an individual appointed by the Mayor with the consent of the Council. A Chairperson and a Vice Chairperson shall be elected and a Secretary shall be appointed at the first meeting of each year. All members shall serve without compensation, but may be reimbursed for actual expenses incurred in connection with their official duties, provided Council has approved such expenditures.

- B. No member shall hold an elected public office in the Town of Kiawah Island or Charleston County.
  - C. Members shall represent a broad cross section of the interests and concerns within the Town of Kiawah Island.
3. Organization and Procedural Rules Governing the Planning Commission.
- A. The Planning Commission shall organize itself electing one of its members as chairperson and one as vice-chairperson whose terms are for one year. The Planning Commission shall appoint a secretary who may be an officer or an employee of the Town or of the Planning Commission. The Planning Commission shall meet at the call of the chairperson and at such times the chairperson or Planning Commission may determine.
  - B. The Planning Commission shall adopt rules of organizational procedure and shall keep a record of its resolutions, findings, and determinations, which record must be a public record. The Planning Commission may purchase equipment and supplies and may employ or contract for such staff and such experts as it considers necessary and consistent with funds appropriated by Town Council.
4. Functions and Powers.
- A. The Planning Commission shall have the functions and powers set forth in Code of Laws of South Carolina, Title 6, Chapter 29, Section 6-29-340 of the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, as amended. In the discharge of its responsibilities, the Planning Commission has the power and duty to:
    - (1) Prepare and revise the Comprehensive Plan and programs for the development and redevelopment for the Town of Kiawah Island;

- (2) Prepare and recommend for adoption to Town Council the following to implement plans and programs within the Town:
  - (a) A zoning ordinance that includes zoning district maps and appropriate revisions thereof;
  - (b) Regulations for the subdivision or development of land and appropriate revisions thereof, and to oversee the administration of the regulations that are adopted by Town Council;
  - (c) An official map and appropriate revision of it showing the exact location of existing or proposed public streets, highways, and utility rights-of-way, and public building sites; regulations to control the erection of buildings or other structures; changes in land use within rights-of-way, building sites, or open spaces within the Town or specified areas within the Town;
  - (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 Town Council or other governmental bodies responsible for implementation prior to preparation of their capital budget; and
  - (f) Policies or procedures to facilitate implementation of planning elements.
- (3) Hear appeals of administrative decisions (by Staff) related to subdivision regulations (SC Code Section 6-29-1150(C)).
  - (a) Staff action, if authorized, to approve or disapprove a land development plan may be appealed to the Planning Commission by a party in interest.
  - (b) The Planning Commission shall act on the Appeal within sixty (60) days and the action of the Planning Commission is final.

- (c) An appeal from the decision of the Planning Commission may be taken to circuit court within thirty (30) days after actual notice of the decision.
- (4) Approve street names (SC Code Section 6-29-1200).
- (a) The Planning Commission shall, by proper certificate, approve and authorize the name of a street or road laid out within the territory over which the Commission has jurisdiction. It is unlawful for a person in laying out a new street or road to name the street or road on a plat, by a marking or in a deed or instrument without first getting the approval of the Planning Commission. Any person violating this provision is guilty of a misdemeanor and, upon conviction must be punished in the discretion of the court.
  - (b) The Planning Commission may, after reasonable notice through a newspaper having general circulation in which the Commission is created and exists, change the name of a street or road within the boundary of its territorial jurisdiction:
    - (i) When there is duplication of names or other conditions which tend to confuse the traveling public or the delivery of mail, orders, or messages;
    - (ii) When it is found that a change may simplify marking or giving of directions to persons seeking to locate addresses; or
    - (iii) Upon any other good and just reason that may appear to the Commission.
  - (c) On the name being changed, after reasonable opportunity for a public hearing, the Planning Commission shall issue its certificate designating the change, which must be recorded in the Office of the Register of Mesne Conveyances or Clerk of Court, and the name changed and certified is the legal name of the street or road.

**12A-106**      **BOARD OF ZONING APPEALS**

## 1.      Creation.

The Town of Kiawah Island Board of Zoning Appeals ("Board") has been created and is authorized to act pursuant to Chapter 29, Article 5, Sections 6-29-780 through 6-29-860 of the South Carolina Code.

## 2.      Composition and Appointment of Term of Office of Members.

A.      The Board of Zoning Appeals shall consist of seven (7) members to be appointed by the Mayor with the consent of the Town Council. At least five (5) of the members shall be residents of the Town of Kiawah Island. A resident member shall mean a person who resides permanently in the Town of Kiawah Island for not less than eight (8) months of each calendar year and is registered to vote on Kiawah Island. Of the seven (7) members, the Board of Zoning Appeals may consist of as many as two (2) members who own property in the Town of Kiawah Island but are not "residents." All members are expected to attend at least eighty (80%) percent of the scheduled and held meetings each calendar year. The term of office shall be for three years. Any vacancy shall be filled for the unexpired term by an individual appointed by the Mayor with the consent of the Council. A Chairperson and a Vice Chairperson shall be elected and a Secretary shall be appointed at the first meeting of each year. All members shall serve without compensation, but may be reimbursed for actual expenses incurred in connection with their official duties, provided Council has approved such expenditures.

B.      No member shall hold an elected public office in the Town of Kiawah Island or Charleston County.

C.      Members shall represent a broad cross section of the interests and concerns within the Town of Kiawah Island.

## 3.      Organizational and Procedural Rules Governing the Board of Zoning Appeals.

The Board of Zoning Appeals has adopted the following rules and regulations:

## A.      Administrative Office.

The Office of the Board of Zoning Appeals shall be located in the Town Hall Office, and the meetings of the Board shall be held in the adjacent conference room unless otherwise designated by the Chairperson. All notices of appeal and other papers to be filed with the Board are to be filed with the Planning Director of the Kiawah Island Planning Department not

less than thirty (30) working days prior to the Board meeting at which the matter will be heard. The Planning Director shall prepare the documentation of the variance requested and the associated exhibits and forward these to the Board members no fewer than ten (10) working days prior to the next Board meeting.

B. Officers.

The Board of Zoning Appeals shall elect one of its members as chairperson and one as vice-chairperson whose terms are for one year. The Planning Director shall serve as Secretary of the Board. Meetings of the Board shall be at the call of the chairperson and at such other times as the Board may determine. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such actions, all of which shall immediately be filed in the office of the Board and shall be a public record.

C. Rules of Procedures and Records.

The Board of Zoning Appeals shall adopt rules of organizational procedure and shall keep a record of its resolutions, findings, and determinations, which record must be a public record. The Board of Zoning Appeals may purchase equipment and supplies and may employ or contract for such staff and such experts as it considers necessary and consistent with funds appropriated by Town Council.

4. Functions and Powers.

The Board of Zoning Appeals shall have the following powers, pursuant to Section 6-29-800 of the South Carolina Code:

A. Administrative Review.

To hear and decide appeals, subject to the procedure and standards set forth in these Zoning Regulations, when it is alleged by the appellant that any administrative official has made an error in any order, requirement, decision, or determination. This requirement shall not apply to advisory or recommendatory actions of any such administrative official or agency.

B. Variances.

To hear and decide applications for variance from the requirements of these Zoning Regulations, subject to the procedure and standards set forth in Section 12A-509.

C. Special Exceptions.

To permit uses by special exception subject to the terms and conditions for those uses as identified in these Zoning Regulations (Section 12A-507).

D. Filing of Appeals to the Board of Zoning Appeals.

- (1) Appeals from the acts of officials pursuant to the authority granted by these Zoning Regulations shall be taken to the Board of Zoning Appeals by any person aggrieved or by any officer, department, board or bureau of the Town, as well as by any person having a substantial interest in any decision of an administrative officer to enforce the Zoning Regulations. An appeal shall be evidenced by filing with the Planning Director within five (5) working days of the action appealed from, a written notice of appeal specifying the grounds thereof and the modifications being sought.
- (2) All appeals, applications and matters brought before the Board of Zoning Appeals shall be heard in the order of filing at the regular meeting of the Board of Zoning Appeal; provided, however, that the Board of Zoning Appeals shall set its meeting agenda and determine the number of applications it will hear. The Chairperson may call a special meeting of the Board of Zoning Appeals.
- (3) Appeals to consider any such appeal, application or matter. In the event that such a special meeting is called, the Chairperson, at his/her discretion, shall give notice to interested parties that any or all pending matters before the Board of Zoning Appeals will be heard and considered at such special meeting.
- (4) Published notice for appeals shall be provided in accordance the Notice Provisions of this Ordinance.

E. Effect of Appeal.

An appeal to the Board of Zoning Appeals stays all proceedings in furtherance of the action appealed. An exception is when the officer from whom the appeal is taken certifies to the Board after the notice of appeal has been filed with him that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Zoning Appeals or by a court of record on application, and notice to the officer from whom the appeal is taken, and on due cause shown.

## F. Hearing on Appeal.

- (1) Hearings on appeals shall be completed within sixty (60) calendar days of the appeal, however, failure to render a decision on an appeal within such time period shall not be deemed an approval of such appeal. At the hearing of an appeal, the parties thereto may offer affidavits, testimony, or other evidence in support of their claims; and the Board, on its own motion, may call before it other witnesses. All persons giving any testimony or evidence whatsoever at a Board of Zoning Appeals meeting must be sworn in. To save time, the oath will be recited as a group prior to the review of cases to be presented. However, anyone not present or not participating in the group swearing in will be required to be separately sworn in prior to giving evidence or testimony.
- (2) At the hearing and consideration of appeals, reasonable time and opportunity shall be allowed to interested parties to introduce testimony and other evidence. Hearings may be continued from time to time by the Board of Zoning Appeals, in its discretion, upon good cause shown. Oral arguments before the Board of Zoning Appeals shall not exceed fifteen (15) minutes to a side, unless upon application before the commencement of arguments, the time shall be enlarged by the Board of Zoning Appeals.
- (3) Parties filing appeals may, after the application has been advertised as part of a meeting's agenda, request the application be deferred. A request for deferral must be in writing, signed by the applicant or agent, set forth the reason for requesting deferral, and set a forthcoming meeting date for the matter to be heard. Without an extraordinary and compelling reason, only one deferral will be permitted. Applicants filing petitions for re-hearings where the Board of Zoning Appeals is being asked to reconsider a decision, order, requirement or determination shall not be permitted to request deferrals. Cases presented before the Board of Zoning Appeals may be deferred for a period of time specified by the Board of Zoning Appeals, provided that this time does not exceed a period of thirty (30) working days.
- (4) In passing upon an appeal, the Board of Zoning Appeals shall not consider prospective financial loss or gain to the appellant, nor shall the Board of Zoning Appeals, by variance, permit to be established or carried on in any district an activity, business, or operation which is not otherwise allowed in such district by a specific provision of the Zoning Regulations.



G. Order of the Board of Zoning Appeals.

(1) The Board of Zoning Appeals shall decide each appeal within sixty (60) calendar days. In exercising its powers relating to appeals, the Board of Zoning Appeals may, in conformity with the provisions of these Zoning Regulations, reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made within the spirit and intent of these Zoning Regulations.

(2) When it shall appear to the Secretary of the Board of Zoning Appeals that an appeal presents substantially the same grounds which have been decided by the Board of Zoning Appeals within the previous one (1) year, the Secretary shall notify the Board of Zoning Appeals thereof, but shall not advertise the appeal or give notice to interested parties until the Board of Zoning Appeals shall determine that an amendment of this Article or other changed conditions requires reopening the issue.

H. Minutes of the Board of Zoning Appeals.

The decisions of the Board of Zoning Appeals shall be in writing and signed by the Chairperson. The minutes of the Board of Zoning Appeals shall show the vote of each member upon each question, or if a member is absent or fails to vote, the minutes shall indicate such fact. The decisions of the Board of Zoning Appeals shall be filed in the offices of the Board of Zoning Appeals and the Planning Director. True copies thereof shall be sent by registered mail to each of the interested parties, and shall show the date of the filing and of the decision. These decisions shall be a public record.

I. Appeals from Board of Zoning Appeals Decisions.

Any person who may have a substantial interest in any decision of the Board of Zoning Appeals or any officer, board, or bureau of the Town may appeal from any decision of the Board of Zoning Appeals to the Circuit Court in and for the County by filing with the Clerk of such court a petition in writing setting forth plainly, fully and distinctly wherein such decision is contrary to law. Such appeal shall be filed within thirty (30) calendar days after the decision of the Board of Zoning Appeals is rendered.

**12A-107**      **PLANNING DIRECTOR**

The Planning Director shall serve as the Zoning Enforcement Officer and shall administer and enforce these Zoning Regulations. In furtherance of such authority, the Director or the Director's designee shall:

1. Receive and examine applications for zoning permits and certificates of occupancy;
2. Approve and issue zoning permits that meet the provisions of Article 12;
3. Keep a record of all applications for zoning permits, including all plats and plans submitted therewith, which record shall be open to public inspection during business hours;
4. Conduct inspections of structures, land, and the uses thereof to determine compliance with these Zoning Regulations;
5. Serve as Secretary of the Board of Zoning Appeals;
6. Receive, file, and forward to the Board of Zoning Appeals the records of all requests for appeals, variances and special exceptions;
7. Review, approve, and issue administrative permits as authorized by these Zoning Regulations and maintain records of such permits;
8. Receive, examine and process all applications for amendments to this Zoning Ordinance (Article 12) including, but not limited to, requests for code text amendments, zoning district amendments, planned developments, and development agreements;
9. Receive, examine and process all applications for amendments to the Comprehensive Plan;
10. Maintain permanent and current records of these Zoning Regulations including, but not limited to, all zoning maps, amendments, conditional uses, special exceptions, variances, appeals, and applications thereof and records of hearings thereon. Such records shall be open to the public for inspection during business hours;
11. Maintain for sale or free distribution to the public a supply of copies of the zoning map or maps, the compiled text of the Zoning Regulations (but not necessarily including amendments establishing or modifying specific planned development amendments), and the rules of the Board of Zoning Appeals;

12. Provide such clerical, technical, and consultative assistance as may be required by the Board of Zoning Appeals, Planning Commission and other Town boards, commissions and officials in the exercise of their duties relating to these Zoning Regulations;
13. Conduct studies requested by Planning Commission related to the Comprehensive Plan, zoning, and other related matters.

**12A-108**      **CONSISTENCY WITH COMPREHENSIVE PLAN**

1. These Zoning Regulations and the Zoning Map adopted herewith are intended to implement the visions and goals of the Town of Kiawah Island Comprehensive Plan and are hereby deemed to be consistent with and in accordance with the adopted Comprehensive Plan. Any amendments to these Zoning Regulations and all applications for a change to the Zoning Map shall be consistent with the intent of Comprehensive Plan.
2. An amendment to the text of the Zoning Regulations is consistent and in accordance with the Comprehensive Plan if it complies with the visions and goals stated in the Comprehensive Plan. An amendment to the Zoning Map is consistent with the intent of Comprehensive Plan if the map amendment is consistent with the Land Use Diagram contained in the Comprehensive Plan.

**12A-109**      **COORDINATION WITH OTHER REGULATIONS**

1. It is the intent of the Town of Kiawah Island that these Zoning Regulations be applied in a manner consistent with other regulations governing the use and development of land including, but not limited to, the Subdivision Regulations, the Road Code, floodplain regulations and other applicable Town, State and Federal regulations. Applications for permits required by other development regulations may be submitted simultaneously with applications for permits required by the Zoning Regulations.
2. The use of buildings and land within the Town shall be subject to all other applicable provisions of the Town of Kiawah Island Municipal Code in addition to these Zoning Regulations, whether or not such other provisions of the Code are specifically cross-referenced in these Zoning Regulations.
3. These Zoning Regulations shall be construed to be the minimum requirements necessary for the promotion of public health, safety or general welfare. Whenever these Zoning Regulations impose a more restrictive standard than required by any other statute or regulation, these Zoning Regulations shall govern.

**12A-110**      **RELATIONSHIP TO PRIVATE RESTRICTIONS**

1. The provisions of these Zoning Regulations are not intended to abrogate any deed restriction, covenant, easement or any other private agreement or restriction on the use of land. Provided, that where the provisions of these Zoning Regulations are more restrictive or impose higher standards than any such private restriction, the requirements of these Zoning Regulations shall control. Where the provisions of any private restriction are more restrictive or impose higher standards than these Zoning Regulations, such private restrictions shall control if properly enforced by a person having the legal right to enforce such restrictions.
2. Private restrictions shall not be enforced by the Town.

**12A-111**      **DEVELOPMENT UNDER PRIOR REGULATIONS**

1. All applications for a rezoning, which have not been acted on by the Planning Commission by the effective date of these Zoning Regulations, shall be submitted or resubmitted, reviewed and evaluated pursuant to these Zoning Regulations and the Comprehensive Plan.
2. All other development applications which are filed after the effective date of these Zoning Regulations shall be processed, reviewed and evaluated in accordance with these Zoning Regulations.
3. Except for rezoning applications, development applications which have been duly filed and which are pending on the effective date of these Zoning Regulations shall be decided on the basis of the Zoning Regulations in effect immediately prior to such effective date. Nothing contained in these regulations shall require any change in plans, construction or designated use of a building structure or parcel with a valid permit actually under construction on the effective date of these Zoning Regulations, provided any such structure is completed within one (1) year from such effective date.
4. Where structures are not complete within one (1) year from the effective date of this ordinance, the new zoning ordinance regulation will apply.

**12A-112**      **APPLICATION FEES**

Fees will be levied in order to defray expenditures associated with application processing. The fees are due with submission of an application. Fees shall be determined by the Town Council.

**12A-113**      **IMPACT FEES**

Purpose and Intent:

The purpose of an impact fee is to:

1. Assure wise appropriate, compatible and timely development of new areas by providing necessary capital facilities in accordance with existing and future needs;
2. Promote desirable living conditions and sustained stability of the Town by ensuring adequate infrastructure and service delivery; and
3. Secure economy in government expenditures by assuring that new development pay its fair and equitable share of additional capital facility costs required by increased services demand generated by new growth.

Impact Fees shall be levied in accordance with this Ordinance at such time as an impact assessment study has been completed. This impact assessment study shall determine the impact fee amount based upon either the gross floor area of nonresidential development or the number of dwelling units of residential development for the purpose of financing public facilities necessary to accommodate new development as may be determined by the Town Council. Impact fees shall be payable at the time of building permit issuance.

**12A-114**      **ENFORCEMENT/PENALTY**

1. The provisions of these Zoning Regulations shall be administered and enforced by the Planning Director.
2. Any violation of these Zoning Regulations shall be subject to enforcement and punishment as prescribed in the South Carolina Code.

**12A-115**      **EFFECT OF ORDINANCE ON PRESERVING RIGHTS IN PENDING LITIGATION AND VIOLATIONS UNDER EXISTING ORDINANCES**

By the passage of these Zoning Regulations no presently illegal or non-conforming use, building or structure shall be deemed to have been legalized. It is further the intent and purpose of these Zoning Regulations that offenses committed, and liability, penalty or forfeiture, either civil or criminal, incurred prior to the time the existing Zoning Ordinance is repealed and replaced by these Zoning Regulations are not affected by such repeal. Prosecutions and suits for such offenses, liabilities, penalties or forfeitures may be instituted and current suits presently pending may proceed with in all respects as if such prior Zoning Ordinance had not been repealed and replaced by these Zoning Regulations.

**12A-116**      **EFFECT OF ZONING REGULATIONS ON DEVELOPMENT AGREEMENTS**

Whenever a development agreement duly entered into pursuant to the South Carolina Local Government Development Agreement Act contains standards for the approval, construction, timing, density, intensity, bulk, height, provision of public facilities, design, and/or other standards relating to development, that are different from or inconsistent with the applicable standards as set forth herein, the standards set forth in this Code and the standards set forth in the development agreement shall, to the extent possible, be construed *in para materia* to give effect to both the Code and development agreement; provided, however, that in the event of a conflict, and subject to the provisions of SC Code Section 6-31-80, the standards set forth in the development agreement shall govern. In the event of a dispute between the parties to a duly approved development agreement as to whether a provision in the Comprehensive Plan or Zoning Code is inconsistent with express or implied substantive provisions of such development agreement, the parties must first submit such disputed interpretation to Town Council and must wait seven days after such submittal before invoking the remedies afforded them under the development agreement.

**12A-117**      **SEPARABILITY**

Should any section, subsection, paragraph, sentence, clause, or phrase of these Zoning Regulations be declared unconstitutional or invalid for any reason, the unconstitutional provision may be removed from these Zoning Regulations and such decision shall not affect the validity of the remaining portions of these Zoning Regulations.

**12A-118**      **EFFECTIVE DATE**

These regulations shall take effect and be in force from and after the date of their adoption by ordinance of the Town Council.

## CHAPTER II - ZONING MAP/DISTRICTS

### 12A-201 ESTABLISHMENT OF ZONING DISTRICTS

Purpose and Intent:

The Zoning Districts described in this Chapter implement the Land Use Categories as described in the Town of Kiawah Island Comprehensive Plan, as amended.

1. In order to classify and segregate the uses of land and buildings, the following districts are hereby established:

R-1, Residential	CS, Community Support
R-2, Residential	PR, Parks and Recreation
R-3, Residential	PD, Planned Development
C, Commercial	KC, Conservation District
RST-1, Resort	
RST-2, Resort	

2. Table 2A lists each of the Comprehensive Plan Land Use Categories and the Zoning Districts which may be established in each category.

**Table 2A: Comprehensive Plan Land Use Categories and Zoning Districts**

Comprehensive Plan Land Use Categories	Zoning Districts*
R-1	R-1, PR
R-2	R-1, R-2, PR
R-3	R-1, R-2, R-3, PR
Commercial	C, PR
Resort	RST-1, RST-2, PR
Community Support	CS
Active Recreation	PR
Open Space	PR, KC
Conservation	PR, KC

\* Planned Developments (PD) may be incorporated into any zoning district subject to criteria contained herein.

**12A-202      ZONING MAP**

## Purpose and Intent:

The Zoning Map defines the boundaries of each district, e.g. Residential (R-1, R-2, R-3) or Resort. In order to provide sufficient clarity and/or deal with special areas of interest, a supplemental zoning map may be used as is done with the Key Locations Zoning Map. The Official Zoning Maps are available at the Kiawah Island Municipal Building.

1. The boundaries of all Zoning Districts are shown on the official Zoning Map (Exhibit 12A-1) of the Town of Kiawah Island, South Carolina ("Zoning Map"). The Key Locations Zoning Map (Exhibit 12A-2) and Tables 2N and 2O define approved docks and dock locations.
2. The Zoning Maps and a record of all amendments thereto shall be kept on file in the office of the Town Administrator and shall constitute the original record, and shall be the final authority as to the current zoning status of all property within the Town of Kiawah Island.
3. Changes in the boundaries of any Zoning District, in accordance with the provisions of this Ordinance and Chapter 29 of the Code of South Carolina, shall be reflected on the Zoning Maps promptly upon approval of the amendment by the Town Council. All amendments to the Zoning Map(s) shall be signed and attested to by the Town Clerk.
4. The Zoning Maps may be prepared in sections as may be required to adequately portray the boundaries of all Zoning Districts. The Zoning Map(s) may include supplemental maps including: the Key Locations Zoning Map(s) and Overlay District Maps in order to portray street classifications, dock locations, boundaries of areas subject to specific limitations or exceptions or such other information as may be required by these Zoning Regulations.
5. In the event that the Zoning Maps become damaged, destroyed, lost or difficult to interpret by reason of the nature or number of changes and additions, Council may, by resolution, adopt Zoning Maps, which shall supersede the prior Maps; provided, however, that the new Zoning Maps shall reflect the prior Zoning District boundaries unless changed pursuant to law.
6. The following rules shall apply in the determination of the boundaries of any district shown on the Zoning Map:
  - A. Where boundaries approximate street or other identifiable property or boundary lines, such lines shall be construed to be the district boundary. Where such boundaries are shown as being within street or within identifiable rights-of-way or creeks, the centerline of the street right-of-way, or creek shall be construed to be the district boundary.



- B. Where a district boundary divides an unsubdivided parcel, the location of the district boundary shall be determined by the use of the scale appearing on the Zoning Map unless indicated by dimensions.
  - C. In the case of a district boundary line dividing a platted lot into two parts, the district boundary line shall be construed to be the property line nearest the less restricted district.
  - D. Map codes or symbols indicating the classification of property on the Zoning Map apply to the entire area within the district boundaries.
  - E. Where a street or right-of-way is officially vacated or abandoned, the Zoning Regulations applicable to the abutting property shall apply to the centerline of the vacated or abandoned street right-of-way.
  - F. Should any uncertainty remain as to the location or meaning of a boundary indicated on the Zoning Map, said uncertainty shall be resolved by the Planning Director, whose decision may be appealed to the Board of Zoning Appeals.
7. When regulations refer to the "classification" of property, the term "classification" means the zone or district applicable to the property.

### **12A-203 DESCRIPTION OF ZONING DISTRICTS AND REGULATIONS**

#### Purpose and Intent:

This section specifies zoning categories and standards for all classes of use, e.g., residential, resort, commercial, etc. Standards include permitted density, lot size and coverage, and supplemental regulations.

1. Any property previously zoned Special Development shall fall under the PD zoning district.
2. In determining the maximum number of dwelling units or hotel rooms per acre, all water bodies and all land below mean high water level on the original or "Grass Roots" site are to be excluded. This requirement serves to reduce overcrowding and over-development of residential, resort, commercial and other sites. Maximum density/intensity is a limit on development rights, and not a grant of vested rights.
3. Lot coverage is defined as the total percentage of lot area that is impervious to stormwater. Included are buildings, decks and raised planters three (3) feet above existing grade, impervious and pervious driveways and impervious walkways, and all paved areas.
4. Where an OCRM Critical Line is located on the property, the setback and buffer requirements of the Waterfront Development Standards, Section 12A-215 shall apply.

5. The following apply to the residential zoning districts:
  - A. For lots on cul-de-sacs or similar circumstances, the minimum width shall apply at the front yard setback line. Cul-de-sac lots shall have a minimum width of twenty-five (25) feet at the street line. The minimum width of any flag lot may be reduced to twenty (20) feet, provided that the minimum width specified in the table is provided at the front building setback line.
  - B. The minimum yard requirements shall be increased to thirty (30) feet from any lot or parcel boundary which abuts a golf course, lagoon, marsh, and/or open area.
  - C. Height of single-family detached homes is measured from the Federal Emergency Management Agency's Base Flood Elevation determined for the individual home site.
6. The following apply to the non-residential zoning districts:
  - A. For lots on cul-de-sacs or similar circumstances, the minimum width shall apply at the front yard setback line. Cul-de-sac lots shall have a minimum width of twenty-five (25) feet at the street line.
  - B. Non-residential structures may have the height in stories shown in the corresponding zoning district lot standards table, provided that the highest roof ridge of the building does not exceed the height shown from the Federal Emergency Management Agency's Base Flood Elevation determined for that individual structure.
  - C. Canopies connected to the main building shall be set back a minimum of twenty (20) feet from any property line.

**12A-204**      **SETBACKS**

A. Contextual Setbacks

Notwithstanding the front setback requirements of the underlying zoning district, the front building line of any structure or addition to a structure may be as close to the street as the front building line of a structure located on any lot that is immediately adjacent to the subject lot. If the subject lot is located between two (2) developed lots, the front building line of the structure that is set back further from the street shall apply to the subject lot.

B. Setbacks on Corner and Double-Frontage Lots

On corner and double-frontage lots, front setback standards will apply to each lot line that borders a street right-of-way. The rear yard setback shall apply to the opposite side of the principal structure's front main entrance. The side yard setback shall apply to the remaining side(s).

**INTENTIONALLY BLANK**

**12A-205 R-1, RESIDENTIAL**

## Purpose and Intent:

The purpose of the R-1 zoning district is to promote stable residential neighborhoods consisting of low density, detached, single family dwellings and surrounding parks, golf courses, and open spaces. Activities and endeavors which might serve to mitigate against this purpose shall be prohibited or strictly regulated.

The following apply to all dwelling units in the R-1 zoning district:

1. The maximum density for this district is three (3) dwelling units per acre;
2. All required parking shall be enclosed;
3. Open storage is prohibited;
4. Lot standards (setbacks, lot coverage, etc.) for single family detached dwellings on existing platted lots that are included in the "Kiawah Island Property Setback Requirements Appendix" dated July 10, 2007 incorporated herein by reference and adopted hereto as Article 12-G of the Municipal Code of the Town of Kiawah Island shall apply in lieu of the setback requirements in Table 2B;
5. Lot standards (setbacks, lot coverage, etc.) for single family detached dwellings not covered by paragraph 4 above are listed in Table 2B and Table 2C;
6. Authorized uses are listed in Table 3A.

**Table 2B: Lot Standards for R-1 Single Family Detached Dwellings**

Lot Size in Square Feet	Maximum Lot Coverage	Depth in Feet	Width in Feet (1)	Minimum Setbacks in Feet			Maximum Height in Stories/Feet
				Front Yard (2)	Side Yard (3)	Rear Yard (4)	
8,000-11,999	40%	100	60	25	10	25	2.5/40
12,000+	33%	100	75	25	20	25	2.5/40

**Notes for Table 2B:**

1. For lots on cul-de-sacs or similar circumstances, the minimum width shall apply at the front yard setback line. Cul-de-sac lots shall have a minimum width of 25 feet at the street line. The minimum width of any flag lot may be reduced to 20 feet, provided that the minimum width specified in the table is provided at the front building setback line.
2. On corner and double-frontage lots, front setback standards will apply to each lot line that borders a street right-of-way. The rear yard setback shall apply to the opposite side of the principal structure's front main entrance. The side yard setback shall apply to the remaining side(s).
3. A minimum of 15 feet must be provided between structures.
4. The minimum yard requirements shall be increased to 30 feet from any lot or parcel boundary which abuts a golf course
5. Minimum setbacks in feet side yard: for lots in existence and reflected on the current Zoning Map and fronting on Eugenia Avenue the side yard setback shall be ten (10) feet.

**12A-206**      **R-2, RESIDENTIAL**

## Purpose and Intent:

The purpose of the R-2 zoning district is to promote stable residential neighborhoods consisting of medium density residences surrounded by parks, golf courses and open spaces. The district is intended for a variety of dwelling unit types. Activities and endeavors which might serve to mitigate against this purpose shall be prohibited or strictly regulated.

The following apply to the R-2 zoning district:

1. The maximum density for this district is six (6) dwelling units per acre;
2. All required parking shall be enclosed;
3. Open storage is prohibited;
4. There shall be no more than four (4) dwelling units in any building within this district;
5. Lot standards (setbacks, lot coverage, etc.) for single family detached dwellings on existing platted lots that are included in the "Kiawah Island Property Setback Requirements Appendix" dated July 10, 2007 incorporated herein by reference and adopted hereto as Article 12-G of the Municipal Code of the Town of Kiawah Island shall apply in lieu of the setback requirements in Table 2C;
6. Lot standards (setbacks, lot coverage, etc.) for patio homes, on existing platted lots that are included in the "Kiawah Island Property Setback Requirements Appendix" dated July 10, 2007 incorporated herein by reference and adopted hereto as Article 12-G of the Municipal Code of the Town of Kiawah Island shall apply in lieu of the setback requirements in Table 2D;
7. Lot standards (setbacks, lot coverage, etc.) for patio homes not covered by paragraph 6 above are listed in Table 2D;
8. Authorized uses are listed in Table 3A.

**Table 2C: Lot Standards for R-2 Single Family Detached Dwellings**

Lot Size in Square Feet	Maximum Lot Coverage	Depth in Feet	Width in Feet (1)	Minimum Setbacks in Feet			Maximum Height in Stories/Feet
				Front Yard (2)	Side Yard (3)	Rear Yard (4)	
6,000-7,999	50%	85	55	20	7	20	2.5/40
8,000-11,999	40%	100	60	25	15	25	2.5/40
12,000+	33%	100	75	25	20	25	2.5/40

**Notes for Table 2C:**

- For lots on cul-de-sacs or similar circumstances, the minimum width shall apply at the front yard setback line. Cul-de-sac lots shall have a minimum width of 25 feet at the street line. The minimum width of any flag lot may be reduced to 20 feet, provided that the minimum width specified in the table is provided at the front building setback line.
- On corner and double-frontage lots, front setback standards will apply to each lot line that borders a street right-of-way. The rear yard setback shall apply to the opposite side of the principal structure's front main entrance. The side yard setback shall apply to the remaining side(s).
- A minimum of 15 feet must be provided between structures.
- The minimum yard requirements shall be increased to 30 feet from any lot or parcel boundary which abuts a golf course.

**Table 2D: Lot Standards for R-2 (Patio Homes, Duplexes & Townhouses)**

Housing Type	Minimum Lot Size in Sq. Ft.	Minimum Setbacks in Feet			Maximum Height in Stories/Feet	Maximum Lot Coverage
		Front	Side (1)	Rear		
Patio Homes, Zero Lot Line Homes	4,000	20	0/10 (2)	20	2.5/35	50%
Duplex	6,500	15	7	20	2.5/40	40%
Townhouse	2,000	10	(see note 3)	20	2.5/40	60%

**Notes for Table 2D:**

- On corner and double-frontage lots, front setback standards will apply to each lot line that borders a street right-of-way. The rear yard setback shall apply to the opposite side of the principal structure's front main entrance. The side yard setback shall apply to the remaining side(s).
- A total distance of 15 feet is required between buildings with 10 feet minimum setback being required on one side of each lot.
- Where the front, interior side and rear setbacks of the underlying zoning district reduces the buildable width of a lot to less than 40 feet, the Planning Director shall be authorized to reduce the required setbacks as much as necessary. However, no setback reduction granted by the Planning Department shall be for more than 15 feet.

**12A-207**      **R-3, RESIDENTIAL**

Purpose and Intent:

The purpose of the R-3 zoning district is to provide for neighborhoods consisting of higher density, residential development for Kiawah Island's residents and guests, surrounded by parks, golf courses, and open spaces. It accommodates multi-family dwellings and other higher density single family alternatives, such as duplexes or townhouses. Activities and endeavors which might serve to mitigate against this purpose shall be prohibited or strictly regulated.

The following apply to the R-3 zoning district:

1. The maximum density for this district is twelve (12) dwelling units per acre;
2. Open storage is prohibited;
3. There shall be no more than four (4) dwelling units in any building within this district;
4. Lot standards (setbacks, lot coverage, etc.) for single family detached dwellings are listed in Table 2E;
5. Lot standards (setbacks, lot coverage, etc.) for patio homes, duplexes, townhouses and multifamily are listed in Table 2F;
6. Authorized uses are listed in Table 3A.

**Table 2E: Lot Standards for R-3 Single Family Detached Dwellings**

Lot Size in Square Feet	Maximum Lot Coverage	Depth in Feet	Width in Feet (1)	Minimum Setbacks in Feet			Maximum Height in Stories/Feet
				Front Yard (2)	Side Yard (3)	Rear Yard (4)	
2,000-3,999	60%	65	20	10	3	10	2.5/40
4,000-5,999	50%	75	30	15	7	15	2.5/40
6,000-7,999	50%	85	55	20	7	20	2.5/40
8,000-11,999	40%	100	60	25	10	25	2.5/40
12,000+	33%	100	75	25	20	25	2.5/40

**Notes for Table 2E:**

- For lots on cul-de-sacs or similar circumstances, the minimum width shall apply at the front yard setback line. Cul-de-sac lots shall have a minimum width of 25 feet at the street line. The minimum width of any flag lot may be reduced to 20 feet, provided that the minimum width specified in the table is provided at the front building setback line.
- On corner and double-frontage lots, front setback standards will apply to each lot line that borders a street right-of-way. The rear yard setback shall apply to the opposite side of the principal structure's front main entrance. The side yard setback shall apply to the remaining side(s).
- A minimum of 15 feet must be provided between structures.
- The minimum yard requirements shall be increased to 30 feet from any lot or parcel boundary which abuts a golf course.

**Table 2F: Lot Standards for R-3  
(Patio Homes, Duplexes, Townhouses & Multifamily)**

Housing Type	Minimum Lot Size in Sq. Ft.	Minimum Setbacks in Feet			Maximum Height in Stories/Feet	Maximum Lot Coverage
		Front	Side (1)	Rear		
Patio Homes, Zero Lot Line Homes	4,000	20	0/10 (2)	20	2.5/35	50%
Duplex	6,500	15	7	20	2.5/40	40%
Townhouse	2,000	10	(see note 3)	20	2.5/40	60%
Multifamily	10,000	25	(see note 3)	20	2/40	60%

**Notes for Table 2F:**

- On corner and double-frontage lots, front setback standards will apply to each lot line that borders a street right-of-way. The rear yard setback shall apply to the opposite side of the principal structure's front main entrance. The side yard setback shall apply to the remaining side(s).
- A total distance of 15 feet is required between buildings with 10 feet minimum setback being required on one side of each lot.
- Where the front, interior side and rear setbacks of the underlying zoning district reduces the buildable width of a lot to less than 40 feet, the Planning Director shall be authorized to reduce the required setbacks as much as necessary. However, no setback reduction granted by the Planning Department shall be for more than 15 feet.



**12A-208      C, COMMERCIAL**

## Purpose and Intent:

The purpose of the commercial zoning district is to provide for high quality, low-rise commercial development to meet the needs of the Island's residents and guests. Because of the limited population served by the Town's commercial facilities, uses permitted in this district generally are smaller in scale than typical in a regional commercial district.

The following apply to the C zoning district:

1. The maximum floor area ratio for this district is 0.2;
2. Open storage is prohibited;
3. Lot standards (setbacks, lot coverage, etc.) are listed in Table 2G;
4. Authorized uses are listed below in Table 3A;
5. Parking standards are given in Section 12A-406.

**Table 2G: Lot Standards for the C, Commercial Zoning District**

Minimum Area in Square Feet (1)	20,000
Minimum Lot Depth in Feet	120
Minimum Width in Feet	150
Maximum Floor Area Ratio	0.2
Maximum Lot Coverage	70%
Maximum Height in Stories/Feet (2)(6)	2.5/35
Minimum Setbacks in Feet (3)	
Front	25
Side (4)	20
Rear (5)	25

## Notes for Table 2G:

1. *Smaller non-residential lots may be permitted by the Council as part of a planned development.*
2. *Buildings shall not exceed the permitted number of stories or height.*
3. *Canopies connected to the main building shall be set back a minimum of 20 feet from any property line.*
4. *No interior side yard will be required on contiguous lots.*
5. *Accessory structures shall be located a minimum of 20 feet from rear property lines.*
6. *Height in the C zoning district applies to all non-residential commercial and general office uses, including restaurants, shops, real estate offices, etc. (not associated with a hotel).*

**12A-209**      **RST-1, RESORT**

Purpose and Intent:

The purpose of the RST-1 zoning district is to provide for development of high quality resorts and associated uses providing a wide range of activities for guests of Kiawah Island.

The following apply to the RST-1 zoning district:

1. The density of guest rooms shall be limited to 8 rooms per acre.
2. Hotels, and Inns shall provide the following resort facilities:
  - A. 10 square feet of swimming pool and contiguous pool deck area per guest room;
  - B. 10 square feet of dining/lounge area per guest room;
  - C. 1 seat of meeting room capacity per guest room;
  - D. Shuttles to transport guests to Kiawah Island golf courses, tennis centers, and other amenities;
  - E. Exercise facilities;
  - F. Direct beach access;
  - G. 1 tennis court per 50 rooms, which may be waived for hotels located within 1,000 feet of existing courts that may be used by hotel guests;
3. Lot standards (setbacks, lot coverage, etc.) are listed in Table 2H;
4. Authorized uses are listed in Table 3A;
5. Parking standards are given in Section 12A-406.

**Table 2H: Lot Standards for the RST-1, Resort Zoning District**

<b>Resort Area</b>	
Maximum Number of Guest Rooms per Acre	8
Minimum Area in Square Feet (1)	20,000
Minimum Lot Depth in Feet	120
Minimum Width in Feet	150
Maximum Floor Area Ratio	0.2
Maximum Lot Coverage	70%
Maximum Height in Stories/Feet (2)(6)	4/70
Minimum Setbacks in Feet (3)	
Front	100
Side (4)	100
Rear (5)	150

**Notes for Table 2H:**

1. *Smaller non-residential lots may be permitted by the Council as part of a planned development.*
2. *Buildings shall not exceed the permitted number of stories or height.*
3. *Canopies connected to the main building shall be set back a minimum of 20 feet from any property line.*
4. *No interior side yard will be required on contiguous lots.*
5. *Accessory structures shall be located a minimum of 20 feet from rear property lines.*
6. *Height in the RST-1 zoning district applies to hotels and associated activities, such as a conference or convention center, meeting rooms, gift shops or restaurants associated with a hotel.*

**12A-210      RST-2, RESORT****Purpose and Intent:**

The purpose of the RST-2 zoning district is to provide for development of high quality resorts and associated uses providing a wide range of activities for guests of Kiawah Island.

The following apply to the RST-2 zoning district:

1. The density of guest rooms shall be limited to 9 rooms per acre.
2. Hotels, and Inns shall provide the following resort facilities:
  - A. 10 square feet of swimming pool and contiguous pool deck area per guest room;
  - B. 10 square feet of dining/lounge area per guest room;
  - C. 1 seat of meeting room capacity per guest room;

- D. Shuttles to transport guests to Kiawah Island golf courses, tennis centers, and other amenities;
  - E. Exercise facilities;
  - F. Direct beach access;
  - G. 1 tennis court per 50 rooms, which may be waived for hotels located within 1,000 feet of existing courts that may be used by hotel guests;
3. Lot standards (setbacks, lot coverage, etc.) are listed in Table 2I;
  4. Authorized uses are listed in Table 3A;
  5. Parking standards are given in Section 12A-406.

**Table 2I: Lot Standards for the RST-2, Resort Zoning District**

Maximum Number of Guest Rooms per Acre	9
Minimum Area in Square Feet (1)	20,000
Minimum Lot Depth in Feet	120
Minimum Width in Feet	150
Maximum Floor Area Ratio	0.2
Maximum Lot Coverage	70%
Maximum Height in Stories/Feet (2)	4/50
Minimum Setbacks in Feet (3)	
Front	50
Side (4)	50
Rear (5)	100

**Notes for Table 2I:**

1. *Smaller non-residential lots may be permitted by the Council as part of a planned development.*
2. *Buildings shall not exceed the permitted number of stories or height.*
3. *Canopies connected to the main building shall be set back a minimum of 20 feet from any property line.*
4. *No interior side yard will be required on contiguous lots.*
5. *Accessory structures shall be located a minimum of 20 feet from rear property lines.*
6. *Height in the RST-2 zoning district applies to hotels and associated activities, such as a conference or convention center, meeting rooms, gift shops or restaurants associated with a hotel.*

**12A-211 CS, COMMUNITY SUPPORT**

## Purpose and Intent:

The purpose of the community support district is to provide for supporting community facilities and services including, but not limited to, utilities, street maintenance facilities and other necessary uses that may not otherwise be compatible with uses permitted in other districts in the Town of Kiawah Island.

The following apply to the CS zoning district:

1. The maximum floor area ratio for this district is 0.25;
2. Lot standards (setbacks, lot coverage, etc.) are listed in Table 2J;
3. Authorized uses are listed in Table 3A;
4. Parking standards are given in Section 12A-406.

**Table 2J: Lot Standards for the CS, Community Support Zoning District**

Minimum Area in Square Feet (1)	20,000
Minimum Lot Depth in Feet	120
Minimum Width in Feet	150
Maximum Floor Area Ratio	0.25
Maximum Lot Coverage	70%
Maximum Height in Stories/Feet (2)(6)	2.5/40
Minimum Setbacks in Feet (3)	
Front	25
Side (4)	25
Rear (5)	25

**Notes for Table 2J:**

1. *Smaller non-residential lots may be permitted by the Council as part of a planned development.*
2. *Buildings shall not exceed the permitted number of stories or height.*
3. *Canopies connected to the main building shall be set back a minimum of 20 feet from any property line.*
4. *No interior side yard will be required on contiguous lots.*
5. *Accessory structures shall be located a minimum of 20 feet from rear property lines.*
6. *Height in the CS zoning district applies to uses which will not fit within the above categories. Example: clubhouses or other recreation-oriented structures, public buildings, churches, etc.*

**12A-212 PR, PARKS AND RECREATION**

## Purpose and Intent:

The purpose of the parks and recreation district is to provide community parks and recreation facilities, including parks, open spaces, golf courses and tennis courts. This district provides for both active and passive use of land. Accessory structures which support or compliment the park/recreation use may be permitted as conditional or special exception uses.

1. Lot standards (setbacks, lot coverage, etc.) for accessory structures in this district are listed in Table 2K;
2. Authorized uses for this district are listed in Table 3A;
3. Parking standards are given in Section 12A-406.

**Table 2K: Lot Standards for Accessory Structures in the PR, Parks and Recreation Zoning District**

Minimum Area in Square Feet (1)	20,000
Minimum Lot Depth in Feet	120
Minimum Width in Feet	150
Maximum Floor Area Ratio	0.2
Maximum Lot Coverage	70%
Maximum Height in Stories/Feet	2/35
Minimum Setbacks in Feet (2)	
Front	25
Side	25
Rear	25

## Notes for Table 2K:

1. *Smaller lots for accessory structures may be permitted by the Town Council as part of a planned development.*
2. *Canopies connected to the main building shall be set back a minimum of 20 feet from any property line.*

**12A-213 PD, PLANNED DEVELOPMENT**

## Purpose and Intent:

A "Planned Development," as defined by the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, as amended, Code of Laws of South Carolina, Title 6, Chapter 29, (6-29-740) is a type of zoning district (PD) and a type of development plan. PD zoning districts are inextricably linked to Planned Development

plans, in that no rights of development apply to a PD zoning designation other than those of the approved Planned Development plan.

The purpose of this district is to promote development under a single overall plan pursuant to special regulations allowing broad land use and site design flexibility. A planned development accommodates other than what could be accomplished under traditional zoning standards. It is intended to encourage flexibility in site design and building location; to encourage efficient land use, building patterns, circulation systems, and utility location; to preserve natural resources, landscape features and other amenities; and to encourage innovative design, architectural styles, building forms and site relationships. This district allows more flexibility in land use and site design while meeting the overall goals of the Comprehensive Plan.

Planned Developments (PD) are subject to the following criteria:

1. All uses authorized in any zoning district are allowed in the PD zoning district so long as uses and densities/intensities are consistent with the Comprehensive Plan and are compatible with adjacent land uses;
2. Conditions may be imposed to ensure a safe and efficient road network, to protect natural resources, to provide for open space and recreational areas and to provide for needed utilities;
3. Standards for the design, bulk and location of buildings and structures shall comply with this Ordinance, provided that the Town Council may, in the process of approving a planned development district, approve deviations from the minimum standards when there is evidence that the deviations will not adversely affect neighboring property or traffic; the development's amenities offset the impacts of less stringent standards; and granting the deviations will not constitute the mere granting of a privilege;
4. Reductions of setbacks or other open space shall be compensated by the provision of additional open space in other appropriate portions of the project, and shall be in keeping with good land use planning principles;
5. The design of all planned developments shall provide for adequate access by firefighting equipment and other emergency vehicles. Approval of the St. John's Fire District shall be required for any deviation from building spacing or road standards.

Planned Development applications shall follow the Planned Development provisions contained in Section 12A-505 and the Code Text and Zoning District Map Amendments provisions contained in Section 12A-504.

**12A-214 KC, CONSERVATION DISTRICT**

Purpose and Intent:

The purpose of the conservation zoning district is to protect and preserve areas which are outside the OCRM Critical Line or define other sensitive areas, which are unsafe or unsuitable for permanent structures or developments.

1. Accreted lands shall become part of the KC, Conservation District.
2. No development is allowed in this district.
3. Uses permitted in KC district shall be limited to boardwalks for beach access, unpaved temporary parking and non-habitable structures controlled by the Town relating to public health, safety and welfare.

**12A-215 SECTION RESERVED FOR FUTURE USE****12A-216 WATERFRONT DEVELOPMENT STANDARDS APPLYING TO PROPERTIES ADJACENT TO SALTWATER MARSHES / WETLANDS / WATERWAYS**

Purpose and Intent:

The OCRM Critical Line setback and buffer standards of this Article are intended to provide a protected area between the furthestmost projection of a structure, parking or driveway area, or any other building elements, and all saltwater marshes / wetlands/ waterways other than ocean front, on properties affected by OCRM (saltwater) Critical Lines. The purpose of the required buffer is to provide a visual, spatial, and ecological transition zone between development and the Island's saltwater marshes / wetlands / waterways, and to protect water quality and wildlife habitat.

1. The following dimensions have precedence over Base Zoning District standard for properties, which adjoin saltwater marshes/wetlands/waterways as shown on the following table:

**Table 2L: Waterfront Development Standards**

	OCRM Critical Line Setback	OCRM Critical Line Buffer
Residential	30 ft.	10 ft
Nonresidential	50 ft.	35 ft.



2. The following additional provisions shall apply to Development of properties adjacent to saltwater marshes/ wetlands/ and waterways.

A. Existing Platted Lots.

The OCRM Critical Line setbacks on existing platted lots that are included in the “Kiawah Island Property Setback Requirements Appendix” dated July 10, 2007 incorporated herein by reference and adopted hereto as Article 12-G of the Municipal Code of the Town of Kiawah Island shall apply in lieu of the setback requirements in Table 2L.

B. Existing Platted Lots not included in Appendix 12 G.

Lots platted prior to July 10, 2007 that contain an OCRM Critical Line setback that are not included in “Kiawah Island Property Setback Requirements Appendix” shall be administratively included by the Planning Director in such appendix if the property owner provides a plat or site plan delineating a current certified OCRM critical line and critical line setback approved by the Kiawah Architectural Review Board (“ARB” as defined in the Development Agreement between the Town and Kiawah Island Resort Associates, L.P., as amended) prior to July 10, 2007.

C. Unplatted Land.

All land platted after July 10, 2007 that contains an OCRM Critical Line shall show the required OCRM Critical Line setbacks and OCRM Critical Line buffers on the preliminary, conditional, and final recorded plats submitted per Article 12C Subdivision Regulations of this Ordinance.

D. Measurements.

Required OCRM Critical Line buffers and setbacks shall be measured from the current OCRM Critical Line, whether the Critical Line or saltwater marsh / wetland / waterway is located on, adjacent to, or near the subject parcel. The current OCRM Critical Line is defined as a line delineated on a plat or survey, verified by the DHEC-OCRM, for the term identified by the OCRM Department representative’s signature on the plat or survey. The provisions of section 12A-204.A, Contextual Setbacks, shall apply to this section when deemed applicable by the Planning Director.

E. Lot Width.

The minimum lot width standards of the underlying zoning district at the time the lot was initially platted shall apply at the required buffer or setback line

F. Prohibited Activities within the OCRM Critical Line Buffer.

The following activities are specifically prohibited within the required OCRM Critical Line Buffer area:

- (1) Removal, excavation, or disturbance of existing vegetation or soil, except for minimal disturbance associated with the planting of additional indigenous vegetation;
- (2) Planting of various species of grass, shrubs and trees requiring fertilization pesticides, herbicides and/or requiring regular maintenance;
- (3) Installation of gardens, fences, or structures;
- (4) Installation of paved or other impervious surfaces; and
- (5) Destruction or addition of plant life which would alter the existing pattern of vegetation.
- (6) Structures and activities associated with DHEC-OCRM approved permits shall be exempt from the above-prohibited activities within the required OCRM Critical Line Buffer.

G. Variances.

Any modification or change from the provisions of Section 12A-216 Waterfront Development Standards Applying to properties adjacent to Saltwater Marshes/Wetlands/Waterways shall only be allowed if a variance is granted by the Board of Zoning Appeals of the Town of Kiawah Island following the procedure outlined in Section 12A-509, Variances.

**12A-217 PROHIBITED CONVERSIONS**

Purpose and Intent:

The purpose of this section is to define the limits of prohibited conversions.

1. Unless expressly provided for in these zoning regulations, no land shall be used and no building shall be erected for, or converted to, any use other than those authorized for the district in which the use is located.
2. No building or portion thereof designed and constructed as a residential building shall be changed to an office, retail or business use of any type, except as provided herein.

**12A-218 SECTION RESERVED FOR FUTURE USE**

**12A-219 DOCK KEY LOCATIONS**

## Purpose and Intent:

Kiawah Island is bordered by the Atlantic Ocean on the south, and the Kiawah and Stono Rivers on the north and east, respectively. Creeks, streams and marsh are also an integral part of the Island's ecosystem.

Key Locations are specific shoreline and marsh sites where floating and fixed docks are permitted to be constructed. The purpose and intent of this Key Location zoning is to strictly control location and installation of all docks, floating and fixed, so as to prevent their uncontrolled proliferation along the Island's river and stream frontage.

## 1. Dock Locations and Design Criteria.

Permitted dock locations and general design criteria are as follows:

- A. The "Town of Kiawah Island Key Locations Map," dated April 1, 2003, shows all sites where authorized docks currently exist or may be permitted to exist in the future. Table 2M, "Town of Kiawah Island Key Locations Floating Docks", and Table 2N, "Town of Kiawah Island Key Locations Fixed Docks", both dated April 1, 2003, provide detailed information as to current and future docks. These are the Town's official zoning documents and are kept at the Town's municipal offices.

The maps and the tables show and detail the specific locations of installed docks on developed lots by identifying lot number and dock type. For property not yet platted, linear footage of shoreline is shown where construction of future docks may be authorized.

In addition to these official documents, the Town will catalog new docks as they are installed at undeveloped Key Locations. This information will be periodically incorporated into the official Key Locations map.

- B. Two basic types of docks are authorized using alphanumeric coding. Authorized dock sites identified by letters (i.e., "A", "F", "AA", etc.) are pre-designated to be "Fixed Docks". These are generally intended for fishing and crabbing and have no movable parts to them. Authorized dock sites identified by numerals (i.e., "3", "12", "21", etc.) are pre-designated to be "Floating Docks". These normally have a separate floating pontoon or platform attached to them, which rises and falls with the tides. Floating Docks are suitable for mooring small watercraft.
- C. The "Town of Kiawah Island Key Locations Map" and the two Town of Kiawah Island Key Locations tables, used in conjunction with one another,

describe the dock type and lot numbers of authorized and in-place dock locations. True orientation of floats attached to Floating Docks is shown on the Map. Floats on both sides at the end of a single pier usually indicate a pier structure shared by two adjacent lots with separate floats provided for each lot owner.

Undeveloped shorelines authorized as future Key Location Dock sites are shown by color-coding on the Maps to indicate dock type, with authorized shoreline given in linear feet in the Tables.

- D. For undeveloped properties and subdivisions where platting is not complete, a developer may, with approval of the Planning Commission, trade-off linear footage of shoreline from one permitted location to another permitted location with no net gain in total authorized footage. Further, transfer of footage may not cause a Key Location to be lengthened by more than 50 percent. In a trade-off event, the developer “borrows” from one Key Location to supplement another Key Location that does not have sufficient linear footage to meet development requirements. Some “trade-offs” which have occurred in the past resulted in the deletion of Key Locations once authorized in the original Key Location Ordinances, 91-2 and 92-1. These deletions are identified and described on both the Map and in the Tables.
- E. It is the intent of this Ordinance that construction of community docks, subdivision (neighborhood) docks, and joint use docks shared by adjacent lot owners be encouraged versus a single installation per lot. This approach serves to minimize the ultimate number of docks built and is more environmentally compatible.
- F. The following criteria shall be applied in the design of any authorized dock structure:
- (1) Overall dock length:  
  
No dock shall be erected greater than 600 linear feet in length.
  - (2) Float design:  
  
Floats attached to such docks shall be limited in size and configuration as the South Carolina Department of Health and Environmental Control’s Office of Ocean and Coastal Resource Management (DHEC/OCRM) and the US Corps of Engineers shall permit.
  - (3) Spacing between adjacent docks:  
  
The minimum distance between adjacent docks shall be 150 feet. However, for adjacent Key Locations properties on river or stream

bends, the waterside terminus of adjacent docks may be at a minimum distance of 75 feet.

- (4) Maximum extension of the dock structure into a river, stream, or channel:

The leading edge (edge nearest the river, stream or channel center) of a pier head and/or float structure shall not extend out into a river or stream more than one-quarter of the river or stream width measured at mean low water, or 50 feet, whichever is less. This projection is to be measured from the water's edge at mean low water.

- (5) Minimum river or stream width:

No dock shall be erected, whether an authorized Key Location or not, if the stream or river on which it is to be erected is 25 linear feet or less in width measured from the marsh grass edge on one bank to the marsh grass edge on the opposing bank directly across the waterway.

- G. The following approvals shall be required before construction on any dock can proceed:

- (1) Town of Kiawah Island.

An initial written request to construct shall be submitted to the Town of Kiawah Island Planning Director prior to any other requests being made. The intent is to confirm to the lot owner whether, in fact, the proposed site is a Key Location before the lot owner spends time and money in developing drawings, etc., for a non-viable project.

- (2) Design approval by DHEC/OCRM and the Town of Kiawah Island.

The second step shall be for the applicant or his contractor to submit dock design to DHEC/OCRM using the appropriate forms and following accepted procedures. During this process, the Town of Kiawah Island will have an opportunity to review the design prior to DHEC/OCRM returning the approved or disapproved application to the applicant. No construction shall start until this approval is forthcoming.

**Table 2M: Town of Kiawah Island Key Locations Floating Docks**

Designation <sup>(a)</sup>	Key Location	Auth.	No.	Docks Authorized
	Location	Shoreline (Lin. Ft.)		Site <sup>(b)</sup> /Use
1	Beachwalker Park	100	TBD	Beachwalker Park
2	Inlet Cove		1	Inlet Cove Neighborhood Dock <sup>(c)</sup>
3	Kiawah River Cmns.	600	TBD	Kiawah Riv. Cmns.
4	Little Rabbit	400	TBD	Little Rabbit
5	Mingo Point	1,200	1	Mingo Point Commercial Dock <sup>(d)</sup> and Boat Launch
6	Old Dock Road		10	Lot #'s 489, 490, 491, 492, 493, 495, 496, 497, 498, & 499
7	The Settlement West	800	TBD	The Settlement West
8	Rhett's Bluff, North		24	Lot #'s 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51/52, and the Rhett's Bluff Park Community Dock <sup>(e)</sup> and Boat Launch
9	Capt. Maynard's, N.	280	1	Lot # 1
10	Capt. Maynard's, S.	930	1	Lot # 1
11	Rhett's Bluff, South		6	Lot #'s 7/8, 9/10, 11/12, 13/14, 15/16 & 17/18
12	Vanderhorst House	50	1	Tracts A & B
13	Terrapin Island		6	Lot #'s 7A/8B, 9/10, 11, 12, 13, & 14
14	Preserve, N.E. Tip	100	1	Lot # 85

Designation <sup>(a)</sup>	Key Location Location	Auth. Shoreline (Lin. Ft.)	No.	Docks Authorized Site <sup>(b)</sup> /Use
15	Cormorant Island, N.		2	Lot #'s 23/24, & 25/26
16	Eagle Point, Central		5	Lot #'s 226/228, 230/232, 234/236, 238/240, and the Eagle Point Neighborhood Dock
17	Eagle Point, West		2	Lot #'s 222/224 and the Eagle Point Dock and Boat Launch
18	Salt Cedar Lane, East Tip		1	Lot # 62
19	Salt Cedar Lane, East		2	Lot #'s 60 & 61
20	Preserve, South		4	Lot #'s 42, 44/46, 48/50 and the Preserve Neighborhood Dock
21	Salt Cedar Lane, Cent.	500	2	Lot #'s 57 & 58
22	Salt Cedar, West		2	Lot #'s 53/54 and the Salt Cedar Community Dock
24	Cougar Island, West	1,150	TBD	Cougar Island, West
25	Cormorant Island, S.		2	Lot #'s 28/29, & 30/31
26	Cougar Island, W. Tip	300	TBD	Cougar Island, W. Tip
27	Otter Island, East		1	Lot # 91
28	Summer Islands, East		4	Lot #'s 12/13, 14/15, 17, and the Summer Islands Neighborhood Dock
29	Summer Islands, West		4	Lot #'s 1/2, 3/4, 5/6, & 7
30	Otter Island, Savanna Point		3	Lot #'s 82, 83/84, & 85/86
31	Otter Island Rd., West		2	Lot #'s 70/71, & 72/73
32	Otter Island Rd., West Tip		2	Lot #'s 68 & 69
33	Ocean Course Drive	500	1	Lot # 65
34	Club Cottages		3	Lot #'s 6, 7, & 8
35	Cougar Island, E. Tip	1,100	TBD	Cougar Island, E. Tip

**Notes for Table 2M:**

- (a) Numerals indicate Floating Docks – Letters indicate Fixed Docks.  
 (b) "21/22" Typically indicates that two lots share a single dock.  
 (c) Neighborhood Docks serve just the local area or regime.  
 (d) Commercial Dock is owned by Kiawah Island Golf Resort.  
 (e) Community Docks are KICA property and serve the entire island.

**Table 2N: Town of Kiawah Island Key Locations Fixed Docks**

Key Location		Auth. Shoreline (Lin. Ft.)	Docks Authorized	
Designation <sup>(a)</sup>	Location		No.	Site <sup>(b)</sup> /Use
A	Old Dock Rd./ Ruddy Turnstone		6	Lot #'s 500, 512, 513, 514, 515, & 517
B	The Settlement, East	1,050	TBD	The Settlement, East
C	Bass Pond, East		1	Bass Pond Community Dock <sup>(c)</sup>
D	Terrapin Island		1	Lot # 15
E	Blue Heron, North		1	Lot # 158
G	Eagle Point, East	1,100	TBD	Eagle Point, East
H	Falcon Point Rd., East		1	Lot # 67
J	Blue Heron, West		1	Blue Heron Community Dock
K	Cougar Island, West	250	TBD	Cougar Island, West
N	Ocean Course Drive		1	Lot # 64
O	Falcon Point, East		1	Falcon Point Neighborhood Dock <sup>(d)</sup>
R	Shell Crk. Lndg., East		1	Lot # 5
S	Shell Crk. Lndg., S.		2	Lot #'s 1/2 & 3/4
T	Club Cottages		3	Lot #'s 9, 10, and the Club Cottage Neighborhood Dock
U	Marsh Cottages		2	Lot #'s 25/26, and the Marsh Cottages Neighborhood Dock
V	Ocean Oaks		1	Ocean Oaks Neighborhood Dock
W	Ibis Pond		1	Ibis Pond Community Dock
X	Willet Pond		1	Willet Pond Community Dock
Y	Blue Heron, North	800	TBD	Blue Heron, North
Z	Osprey Entry		1	Canvasback Pond Community Dock
AA	Bass Pond, West	100	TBD	Bass Pond, West
BB	Egret Pond		1	Egret Pond Community Dock

**Notes for Table 2N:**

- (a) Numerals indicate Floating Docks. Letters indicate Fixed Docks.
- (b) "21/22" typically indicates that two lots share a single dock.
- (c) Community Docks are KICA property and serve the entire Island.
- (d) Neighborhood Docks serve just the local area or regime.



**12A-220**      **DESIGNATION OF ANNEXED TERRITORY**

Purpose and Intent:

This section describes the processing procedure for development applications located within newly annexed areas.

1. No development applications shall be filed for thirty (30) days from the date of annexation for any territory annexed to the Town. This thirty (30)-day moratorium is a "planning pause" moratorium to allow the Town Planning Commission to initiate proceedings to designate permanent zoning for the newly annexed territory. The Town Council may extend the thirty (30) day planning pause by ordinance for an additional period of time deemed reasonable by the Town Council.

## CHAPTER III - USE REGULATIONS

### 12A-301      PRINCIPAL USES AND USE REGULATIONS

Purpose and Intent:

Principal uses are the uses permitted in each Zoning District. These are shown in Table 3A, "Authorized Uses in Zoning Districts." The intent is to allow and regulate uses which are deemed compatible with the purpose of that district, with or without conditions; or to restrict uses.

Use regulations are "Conditions of Use." These conditions are requirements which must be met to comply with the Zoning Ordinance.

The three classifications of use are "Permitted", "Conditional", and "Special Exception" as defined below and as listed in Table 3A (Where no classification of use is shown (a blank cell), that use is prohibited in the zoning district):

1.      Permitted Use.

Permitted use is the Principal Use allowed in a Zoning District. It is a use of right. By way of example, single family detached dwelling units are permitted in all residential zoning districts, R-1, R-2, and R-3. However, multi-family residential units are only permitted in the R-3 Zoning District. A "P" indicates that a use type is a permitted use.

2.      Conditional Use.

Conditional uses are uses that are permitted within a Zoning District only when the identified conditions for that particular use have been met and the zoning permit application approved by the Planning Director. Conditions for each use are specified in Section 12A-302, "Conditions of Use." A "C" indicates that a use type is a conditional use.

3.      Special Exception.

Special Exceptions may only be granted by the Board of Zoning Appeals. These are uses which are generally compatible with the permitted land uses in a Zoning District, but which require specific review of the location of the site and the design, configuration and operation of the proposed use, as well as the possibility of imposition of conditions in order to ensure the compatibility of the use at a particular location within the Zoning District. Section 12A-507 provides a complete description and requirements for "Special Exceptions." An "S" indicates that a use type requires a Special Exception.



TABLE 3A AUTHORIZED USES IN ZONING DISTRICTS

USE CATEGORY	PRINCIPAL USES	ZONING DISTRICTS											Conditional Use Reference			
		R-1	R-2	R-3	C	RST-1	RST-2	CS	PR	PD	KC					
MUSEUMS, HISTORICAL SITES AND SIMILAR INSTITUTIONS	Historical Sites	C	C	C	P	C	C	C	P	C						4
	Libraries or Archives				P	C	C	C		C						4
	Museums or Art Galleries				P	C	C	C		C						4
	Nature Exhibitions					C	C			C						4
	Botanical Gardens or Arboretums				P	C	C			P						4
POSTAL SERVICE	Postal Service, United States				P									C		5
RECREATION AND ENTERTAINMENT																
	Community Recreation, including Sports Activities, Playgrounds and Athletic Areas, or Swimming Areas (beaches and pools)				C	C	C			C						6
	Golf Courses or Country Clubs													C		6
	Parks	P	P	P	P	C	C	C	C	P	C	C	P	C	P	6
	Motion Picture and Live Theaters				C	C	C									6
	Recreation or Vacation Camps				C					C						6
	Recreational Equipment Storage				C	C	C	C	C	C	C	C	C			6
RELIGIOUS, CIVIC, PROFESSIONAL AND SIMILAR ORGANIZATIONS																
	Business and Professional Organizations				P											
	Social or Civic Organizations, including Youth Organizations, Sororities, or Fraternities				P											
	Church, Synagogue, Temple or Religious Assembly				P							P				

TABLE 3A AUTHORIZED USES IN ZONING DISTRICTS

USE CATEGORY	PRINCIPAL USES	ZONING DISTRICTS											Conditional Use Reference					
		R-1	R-2	R-3	C	RST-1	RST-2	CS	PR	PD	KC							
UTILITIES AND WASTE-RELATED USES	Utility Service, Major																	
	Electric Substation				S	S	S										1	
	Electrical or Telephone Switching Facilities											C					7	
	Electricity or Water Maintenance Facilities											P						
	Sewage Pumping Control Stations	S	S	S	C	C	C					P	C	C			7	
	Sewage Sludge Drying Beds											P						
	Water Pressure Control Stations				C	C	C					P	C				7	
	Water or Sewage Treatment Facilities											P						
	Water Storage Tanks											P			C			1
	Utility Service, Minor																	
COMMERCIAL ACCOMMODATIONS	Electric or Gas Power Distribution	C	C	C	C	C	C					P	C	C			7	
	Sewage Collection Service Lines	C	C	C	C	C	C					P	C	C			7	
	Hotels or Inns															C/S	C/S	8
FINANCIAL SERVICES	Banks																	9
	Financial Services, including Loan or Lending Services, Savings and Loan Institutions, or Stock and Bond Brokers																	9

TABLE 3A AUTHORIZED USES IN ZONING DISTRICTS

USE CATEGORY	PRINCIPAL USES	ZONING DISTRICTS											Conditional Use Reference			
		R-1	R-2	R-3	C	RST-1	RST-2	CS	PR	PD	KC					
FOOD AND BEVERAGE SERVICES																
	Bar or Lounge (Alcoholic Beverages), including Taverns, Cocktail Lounges, or Member Exclusive Bars or Lounges				S	S	S									
	Catering Services				C	C	C									10
	Restaurant, General, including Cafeterias, Diners, Delicatessens, or Full-Service Restaurants, or accessory uses to a Golf Course, Club House, or Recreational Area (without alcoholic beverages)				P	C	C		S	C						10
INFORMATION INDUSTRIES	Restaurant, General, including Cafeterias, Diners, Delicatessens, Full-Service Restaurants, or accessory uses to a Golf Course, Club House, or Recreational Area (with alcoholic beverages)				C	C	C		C/S	C						10
	Advertising Services (not including advertising signs)				C											11
	News Syndicate Services				P											
	Radio and Television Broadcasting Studios (only)				C	C	C									11
	Data Processing Services				P											

TABLE 3A. AUTHORIZED USES IN ZONING DISTRICTS

USE CATEGORY	PRINCIPAL USES	ZONING DISTRICTS											Conditional Use Reference			
		R-1	R-2	R-3	C	RST-1	RST-2	CS	PR	PD	KC					
OFFICES																
	<i>Real Estate Sales and Services</i>				P	P	P						C			1
	Administrative or Business Office, including Bookkeeping Services, Couriers, Insurance Offices, Personnel Offices, Real Estate Services, Secretarial Services or Travel Arrangement or Ticketing Services Government Offices				P			C								
	Legal and other Professional Services, including Accounting, Tax Preparation, Architectural, or Engineering				P											12
OTHER NONRESIDENTIAL DEVELOPMENT																
	Communications Towers Convention Center or Visitors Bureaus											C	C	C		13 14
REPAIR AND MAINTENANCE SERVICES																
	Repair Service, Consumer, including Appliance, Shoe, Watch, Furniture, Jewelry, or Musical Instrument Repair Shops Vehicle Service, Limited, including Automotive Oil Change or Lubrication Shops, or Car Washes (enclosed area only)															15 15

TABLE 3A AUTHORIZED USES IN ZONING DISTRICTS

USE CATEGORY	PRINCIPAL USES	ZONING DISTRICTS											Conditional Use Reference					
		R-1	R-2	R-3	C	RST-1	RST-2	CS	PR	PD	KC							
RETAIL SALES	<b>Non-store Retailers</b>																	
	Direct Selling Establishments				C												16	
	Electronic Shopping or Mail-Order Houses				C												16	
	<b>Building Materials or Garden Equipment and Supplies Retailers</b>																	
	Hardware Stores				C												16	
	Home Improvement Centers				C													
	Garden Supplies Centers or Nursery and Greenhouse Retail Centers				C												16	
	Paint, Varnish, Glass, or Wallpaper Stores				C												16	
	<b>Food Sales, including Grocery Stores, Meat Markets or Butchers, Retail Bakeries, or Candy Shops</b>				C												16	
	<b>Liquor, Beer, or Wine Sales</b>				C												16	
	<b>Retail Sales or Services, General</b>																	
	Antique Stores				C													16
	Department Store or Limited Price Variety Stores				C													16
	Art, Hobby, Musical Instrument, Toy, or Related Products Stores				C	C					C							16
	Sporting Goods or Bicycle retail and rental				C	C					C							16
Book, Stationary, Newspaper, or Magazine retail				C	C					C							16	
Cameras or Photographic Supplies Stores				C	C					C							16	
Clothing, Piece Goods, Shoes, Jewelry, Luggage, Leather Goods or Related Products Stores, Florists				C	C					C	C						16	
Convenience Stores (less than 5000 sq. ft. gross floor area per establishment)				C	C					C	C						16	
Drug Stores or Pharmacies (less than 5000 sq. ft. gross floor area per establishment)				C	C					C	C						16	
Electronics, Appliance, Electrical Supplies, or Related Products Stores				C													16	
Furniture, Cabinet, Home Furnishings, or Related Products Stores				C													16	
Gifts, Novelties and Souvenir Stores				C	C					C	C						16	
Optical Goods				C													16	



TABLE 3A. AUTHORIZED USES IN ZONING DISTRICTS

USE CATEGORY	PRINCIPAL USES	ZONING DISTRICTS											Conditional Use Reference		
		R-1	R-2	R-3	C	RST-1	RST-2	CS	PR	PD	KC				
RETAIL SALES	Private Postal or Mailing Services				C										16
	Tobaccoists				C	C	C								16
	Service Stations, Gasoline (with or without convenience stores)				C										16
RETAIL OR PERSONAL SERVICES	Consumer Convenience Services														
	Locksmiths				C										16
	Tailors or Seamstresses				C	C	C								16
	Hair, Nail, or Skin Care Services, including Barber Shops or Beauty Salons				C	C	C								16
	Personal Improvement Services, including Health or Physical Fitness Studios, Reducing Studios, and Spas				C	C	C								16
	Photographic Services, including one-hour photo finishing				C	C	C								16
	Construction Services							C							17
WAREHOUSE AND STORAGE FACILITIES	Warehouse and Storage Facilities							C							18
	Vehicle Storage, including boat or RV Storage										C				19
RECYCLING SERVICES	Recycling Collection, Drop-Off										C				20
	Taxi Stands							C	C	C					
TRANSPORTATION	Bus Passenger Stands							C	C	C					21

## CHAPTER III - USE REGULATIONS

### 12A-301      PRINCIPAL USES AND USE REGULATIONS

Purpose and Intent:

Principal uses are the uses permitted in each Zoning District. These are shown in Table 3A, "Authorized Uses in Zoning Districts." The intent is to allow and regulate uses that are deemed compatible with the purpose of that district, with or without conditions; or to restrict uses.

Use regulations are "Conditions of Use." These conditions are requirements that must be met to comply with the Zoning Ordinance.

The three classifications of use are "Permitted", "Conditional", and "Special Exception" as defined below and as listed in Table 3A (Where no classification of use is shown (a blank cell), that use is prohibited in the zoning district):

1.      Permitted Use.

Permitted use is the Principal Use allowed in a Zoning District. It is a use of right. By way of example, single-family detached dwelling units are permitted in all residential zoning districts, R-1, R-2, and R-3. However, multi-family residential units are only permitted in the R-3 Zoning District. A "P" indicates that a use type is a permitted use.

2.      Conditional Use.

Conditional uses are uses that are permitted within a Zoning District only when the identified conditions for that particular use have been met and the zoning permit application approved by the Planning Director. Conditions for each use are specified in Section 12A-302, "Conditions of Use." A "C" indicates that a use type is a conditional use.

3.      Special Exception.

Special Exceptions may only be granted by the Board of Zoning Appeals. These are uses which are generally compatible with the permitted land uses in a Zoning District, but which require specific review of the location of the site and the design, configuration and operation of the proposed use, as well as the possibility of imposition of conditions in order to ensure the compatibility of the use at a particular location within the Zoning District. Section 12A-507 provides a complete description and requirements for "Special Exceptions." An "S" indicates that a use type requires a Special Exception.

**Table 3A. Authorized Uses in Zoning Districts**

P=Permitted Use C=Conditional Use S=Special Exception

USE CATEGORY	PRINCIPAL USES	ZONING DISTRICTS											Conditional Use Reference		
		R-1	R-2	R-3	C	RST-1	RST-2	CS	PR	PD	KC				
RESIDENTIAL															
	Single-Family Detached	P	P	P									C		I
	Single-Family Attached, also known as Townhouses or Patio Homes		P	P										C	I
	Duplex		P	P									C		I
CIVIC / INSTITUTIONAL COURTS AND PUBLIC SAFETY	Multi-Family (including Townhouses and Apartments)			P									C		I
	Court of Law														
EDUCATIONAL SERVICES	Safety Services, including Emergency Medical or Ambulance Service, Fire Protection, or Police Protection										P				
	Day Care														
	Pre-school or Educational Nursery				C									C	2
HEALTH CARE SERVICES	Personal Improvement Education, including Golf or Fine Arts Schools								C	C					2
	Physicians' and Dentists' Offices													C	3
	Medical Clinics-Outpatient Services				C										3

TABLE 3A AUTHORIZED USES IN ZONING DISTRICTS

USE CATEGORY	PRINCIPAL USES	ZONING DISTRICTS											Conditional Use Reference		
		R-1	R-2	R-3	C	RST-1	RST-2	CS	PR	PD	KC				
MUSEUMS, HISTORICAL SITES AND SIMILAR INSTITUTIONS	Historical Sites	C	C	C	P	C	C	C	P	C					4
	Libraries or Archives				P	C	C	C							4
	Museums or Art Galleries				P	C	C	C							4
	Nature Exhibitions					C	C	C							4
	Botanical Gardens or Arboretums				P	C	C	C	P	C					4
POSTAL SERVICE	Postal Service, United States				P										5
RECREATION AND ENTERTAINMENT	Community Recreation, including Sports Activities, Playgrounds and Athletic Areas, or Swimming Areas (beaches and pools)				C	C	C	C							6
	Golf Courses or Country Clubs														6
	Parks	P	P	P	P	C	C	C	P	C	P	C	P		6
	Motion Picture and Live Theaters				C	C	C	C							6
	Recreation or Vacation Camps				C						C				6
	Recreational Equipment Storage				C	C	C	C	C	C	C	C	C		6
RELIGIOUS, CIVIC, PROFESSIONAL AND SIMILAR ORGANIZATIONS	Business and Professional Organizations				P										
	Social or Civic Organizations, including Youth Organizations, Sororities, or Fraternities				P										
	Church, Synagogue, Temple or Religious Assembly				P								P		

TABLE 3A AUTHORIZED USES IN ZONING DISTRICTS

USE CATEGORY	PRINCIPAL USES	ZONING DISTRICTS											Conditional Use Reference						
		R-1	R-2	R-3	C	RST-1	RST-2	CS	PR	PD	KC								
UTILITIES AND WASTE-RELATED USES	Utility Service, Major																		
	Electric Substation				S	S	S											1	
	Electrical or Telephone Switching Facilities																	7	
	Electricity or Water Maintenance Facilities																		
	Sewage Pumping Control Stations	S	S	S	C	C	C	P	C	C								7	
	Sewage Sludge Drying Beds																		
	Water Pressure Control Stations				C	C	C	P	C									7	
	Water or Sewage Treatment Facilities																		
	Water Storage Tanks																		1
	Utility Service, Minor																		
COMMERCIAL ACCOMMODATIONS	Electric or Gas Power Distribution	C	C	C	C	C	C	P	C	C								7	
	Sewage Collection Service Lines	C	C	C	C	C	C	P	C	C								7	
	Hotels or Inns										C/S	C/S						8	
FINANCIAL SERVICES	Banks																	9	
	Financial Services, including Loan or Lending Services, Savings and Loan Institutions, or Stock and Bond Brokers				C													9	

TABLE 3A AUTHORIZED USES IN ZONING DISTRICTS

USE CATEGORY	PRINCIPAL USES	ZONING DISTRICTS											Conditional Use Reference			
		R-1	R-2	R-3	C	RST-1	RST-2	CS	PR	PD	KC					
FOOD AND BEVERAGE SERVICES																
	Bar or Lounge (Alcoholic Beverages), including Taverns, Cocktail Lounges, or Member Exclusive Bars or Lounges				S	S	S									
	Catering Services				C	C	C									10
	Restaurant, General, including Cafeterias, Diners, Delicatessens, or Full-Service Restaurants, or accessory uses to a Golf Course, Club House, or Recreational Area (without alcoholic beverages)				P	C	C		S	C						10
INFORMATION INDUSTRIES	Restaurant, General, including Cafeterias, Diners, Delicatessens, Full-Service Restaurants, or accessory uses to a Golf Course, Club House, or Recreational Area (with alcoholic beverages)				C	C	C		C/S	C						10
	Advertising Services (not including advertising signs)						C									11
	News Syndicate Services						P									
	Radio and Television Broadcasting Studios (only)						C	C	C	C						11
	Data Processing Services						P									

TABLE 3A AUTHORIZED USES IN ZONING DISTRICTS

USE CATEGORY	PRINCIPAL USES	ZONING DISTRICTS											Conditional Use Reference				
		R-1	R-2	R-3	C	RST-1	RST-2	CS	PR	PD	KC						
OFFICES																	
	<i>Real Estate Sales and Services</i>				P	P	P										I
	Administrative or Business Office, including Bookkeeping Services, Couriers, Insurance Offices, Personnel Offices, Real Estate Services, Secretarial Services or Travel Arrangement or Ticketing Services				P												
	Government Offices				P												12
	Legal and other Professional Services, including Accounting, Tax Preparation, Architectural, or Engineering				P												
OTHER NONRESIDENTIAL DEVELOPMENT																	
	Communications Towers																
	Convention Center or Visitors Bureaus				C							C					13
REPAIR AND MAINTENANCE SERVICES																	
	Repair Service, Consumer, including Appliance, Shoe, Watch, Furniture, Jewelry, or Musical Instrument Repair Shops				C												15
	Vehicle Service, Limited, including Automotive Oil Change or Lubrication Shops, or Car Washes (enclosed area only)				C							C					15

TABLE 3A AUTHORIZED USES IN ZONING DISTRICTS

USE CATEGORY	PRINCIPAL USES	ZONING DISTRICTS											Conditional Use Reference			
		R-1	R-2	R-3	C	RST-1	RST-2	CS	PR	PD	KC					
RETAIL SALES	<b>Non-store Retailers</b>															
	Direct Selling Establishments				C											16
	Electronic Shopping or Mail-Order Houses				C											16
	<b>Building Materials or Garden Equipment and Supplies Retailers</b>															
	Hardware Stores				C											16
	Home Improvement Centers				C											
	Garden Supplies Centers or Nursery and Greenhouse Retail Centers				C											16
	Paint, Varnish, Glass, or Wallpaper Stores				C											16
	<b>Food Sales, including Grocery Stores, Meat Markets or Butchers, Retail Bakeries, or Candy Shops</b>				C											16
	<b>Liquor, Beer, or Wine Sales</b>				C				C							16
	<b>Retail Sales or Services, General</b>															
	Antique Stores				C											16
	Department Store or Limited Price Variety Stores				C											16
	Art, Hobby, Musical Instrument, Toy, or Related Products Stores				C				C							16
	Sporting Goods or Bicycle retail and rental				C				C							16
Book, Stationary, Newspaper, or Magazine retail				C				C							16	
Cameras or Photographic Supplies Stores				C				C							16	
Clothing, Piece Goods, Shoes, Jewelry, Luggage, Leather Goods or Related Products Stores, Florists				C				C		C					16	
Convenience Stores (less than 5000 sq. ft. gross floor area per establishment)				C				C		C					16	
Drug Stores or Pharmacies (less than 5000 sq. ft. gross floor area per establishment)				C				C		C					16	
Electronics, Appliance, Electrical Supplies, or Related Products Stores				C											16	
Furniture, Cabinet, Home Furnishings, or Related Products Stores				C											16	
Gifts, Novelties and Souvenir Stores				C				C		C					16	
Optical Goods				C											16	



TABLE 3A AUTHORIZED USES IN ZONING DISTRICTS

USE CATEGORY	PRINCIPAL USES	ZONING DISTRICTS											Conditional Use Reference			
		R-1	R-2	R-3	C	RST-1	RST-2	CS	PR	PD	KC					
RETAIL SALES																
	Private Postal or Mailing Services				C											16
	Tobacconists				C	C	C									16
RETAIL OR PERSONAL SERVICES	Service Stations, Gasoline (with or without convenience stores)				C											16
	Consumer Convenience Services															
	Locksmiths				C											16
	Tailors or Seamstresses				C	C	C									16
	Hair, Nail, or Skin Care Services, including Barber Shops or Beauty Salons				C	C	C									16
	Personal Improvement Services, including Health or Physical Fitness Studios, Reducing Studios, and Spas				C	C	C									16
CONSTRUCTION SERVICES	Photographic Services, including one-hour photo finishing				C	C	C									16
	Construction Services										C					17
WAREHOUSE AND STORAGE FACILITIES																
	Warehouse and Storage Facilities										C					18
VEHICLE STORAGE																
	Vehicle Storage, including boat or RV Storage										C					19
RECYCLING SERVICES																
	Recycling Collection, Drop-Off										C					20
TRANSPORTATION																
	Taxi Stands									C	C	C				
	Bus Passenger Stands									C	C	C				21

**12A-302      CONDITIONS OF USE**

1. Planned Development.
  - A. Planned Developments shall follow the Planned Development provisions contained in Section 12A-213 and 12A-505, and the Code Text and Zoning District Map Amendments provisions contained in Section 12A-504.
  
2. Educational Services.
  - A. Educational Services are those services offered for the exclusive use of residents, on island employees and guests of Kiawah for instruction and care of their dependent children. The following conditions must be met for an Educational Services Use:
    - (1) Proof of application for the facilities license from the South Carolina Department of Social Services where appropriate;
    - (2) Play areas within 50 feet of a residential Zoning District shall be buffered pursuant to Section 12A-402;
    - (3) Off street parking requirements contained within this Ordinance are met and are buffered in accordance with Section 12A-405;
    - (4) Site plans for ingress/egress, loading/unloading and the location of the parking areas are approved by the Planning Director; and
    - (5) Proposed outdoor lighting of the facility does not negatively impact neighboring properties or the beachfront.
  
3. Health Care Services.
  - A. These services include Medical Clinics with Outpatient Services, Physicians' and Dentist's Offices.
    - (1) Out-patient clinics, including offices for physicians or dentists, shall be limited to 2,000 square feet of floor area and shall not provide a base for emergency medical vehicles or service unless approved as a special exception pursuant to Special Exception provisions contained in this Ordinance.
  
4. Museums, Historical Sites and Similar Institutions.
  - A. Historical Sites within residential areas shall be restricted to the hours between 7 a.m. and 8 p.m.
  - B. Historical Sites, libraries, archives, museums, and/or art galleries shall be

completely housed within the principal use.

C. Nature Exhibitions.

- (1) Where nature exhibitions are of public ownership or listed in the National Registry of Natural Landmarks or registered as a Heritage Site with the South Carolina Heritage Trust in accordance with the provisions of Act #600 of the 1976 Acts and Joint Resolutions, either in public or private ownership, accessory uses to acquire maintenance revenue are permitted.
- (2) Accessory uses are limited to the retail sale of gifts, novelties, souvenirs, and food services. Accessory structures so used shall not exceed 10 percent in size of the principal structures when the nature exhibit is housed, or 1200 square feet for each acre when the nature exhibit is not enclosed.
- (3) Parking requirements for each accessory use, in addition to the parking requirements for the principal use, shall comply with the parking requirements of Section 12A-405.
- (4) Signs advertising accessory uses shall be located on the premises and not visible from a public road.

D. Botanical Gardens and/or arboretums shall be housed completely on the grounds of the principal use.

5. Postal Service, United States.

Any postal service facility shall have a maximum floor area of 5000 square feet or less.

6. Recreation and Entertainment.

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

- (1) All parks with soccer, baseball and similar playfields shall meet all off-street parking requirements of Section 12A-405. The Planning Director shall determine the need for additional spaces based on available parking studies for similar uses in similar communities;
- (2) All parking areas and recreational equipment storage areas shall meet the buffering requirements of Section 12A-402 and be screened from view from any adjacent residential use. Screening shall be opaque and shall be at least four (4) feet in height. Screening may be masonry or natural materials if approved by the Planning Director;

- (3) Small passive parks of one (1) acre or less within residential neighborhoods shall have no parking requirements;
  - (4) Be designed so that light sources are shielded from adjacent single family residential properties and the beachfront.
7. Utilities and Waste-Related Uses.
- A. Above-ground water storage tanks, sewage pumping stations, telephone relay towers, electric regulating substations and similar utility/communications structures shall comply with the following standards:
    - (1) Facilities shall be located at least fifty (50) feet from any residential property line;
    - (2) Facilities shall be secured by a fence located at least twenty-five (25) feet from any residential property line;
    - (3) Facilities shall be surrounded by a buffer pursuant to Section 12A-402;
    - (4) Telephone exchange stations and communications towers shall be limited to unmanned facilities, and shall provide at least two parking spaces for service vehicles; and
    - (5) Radio transmitting stations and towers shall be set back from Zoning District boundaries a distance equal to their height.
  - B. Communications, utility distribution lines and water transmission lines shall be located underground in all districts.
  - C. The following equipment is permitted in all zoning districts. Above-ground equipment (e.g., pad-mounted transformers) shall be screened from public view:
    - Electrical Pedestals
    - Electrical Pad Mounted Transformers
    - Electrical Switch Gear Cabinets
    - Electrical Service Meters
    - Telephone Equipment Cabinets
    - Telephone Pedestals
    - Irrigation Controllers
    - Backflow Preventors
    - Cable Television Amplifiers
    - Other such similar equipment typically installed above ground.

D. Utility Cabinets, Utility Structures.

For utility cabinets which measure approximately nine (9) feet in length by six (6) feet in width, and once installed, stand approximately five (5) feet above grade, and for any other utility structures which the Zoning Administrator determines are similar in size and impact on the community shall be treated as accessory structures and the following standards shall apply:

- (1) Structure shall not be located on property zoned for residential use and must be located a minimum of ten (10) feet from any residential property line.
- (2) Structure shall be surrounded by a landscaped buffer, pursuant to Section 12A-402.

8. Commercial Accommodations.

- A. Hotels or Inns providing more than fifty (50) guest rooms shall comply with the Special Exception Provisions of this Ordinance or shall be a part of a development agreement.

9. Financial Services.

A. Automated teller machines (ATM) – Stand-Alone

- (1) ATMs shall be walk-up style and shall be permitted as accessory uses.

10. Food and Beverage Services.

A. Bars, Cocktail Lounges, Taverns.

- (1) Bars or lounges, including taverns, cocktail lounges or member exclusive bars or lounges serving alcoholic beverages are only permitted in restaurants, private clubs, hotels, inns, or country clubs.
- (2) Where applicable, these uses shall comply with the Special Exception provisions of this Ordinance.

B. Catering Services.

- (1) Catering Service facilities shall only prepare and store food in permitted restaurants, private clubs, hotels, inns, or country clubs.

C. Restaurant, General.

- (1) All general restaurants not a part of a hotel, inn, private club or

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country club and occupying over 2,000 square feet of floor area shall comply with the Special Exception provisions of this Ordinance.

11. Information Industries.

A. Advertising Services.

- (1) All advertising associated with this use shall be contained within the structure and not visible, except for any permitted sign, on the exterior of the structure.

B. Radio and Television Broadcasting Studios.

- (1) All radio or television broadcast studios shall be located within a structure. No mobile radio or television broadcast stations are permitted as a permanent use. Temporary use permits may be granted if applicant complies with temporary use permit requirements.

12. Government Offices.

Government offices shall:

- A. Meet the buffer requirements of Section 12A-402;
- B. Provide off-street parking as required in Section 12A-406; and
- C. Be designed so that light sources are shielded from adjacent single family residential properties.

13. Communications Towers.

A. Purpose and Legislative Intent.

The Federal Telecommunications Act of 1996 affirmed the Town of Kiawah Island's authority concerning the placement, construction and modification of Wireless Telecommunications Facilities. The regulations of this section are designed to site communications towers on Kiawah Island. It is the intent of these regulations to allow for the harmonious co-existence of communications towers and other land uses. It is also the intent of these regulations to reduce the overall negative impact of communications towers by:

- (1) Reducing the number of towers needed through a policy of encouraging co location; and
- (2) If co-location is not feasible, encouraging the following:

- (a) The use of Stealth Tower Design, as defined below;
- (b) The clustering of towers ("tower farms");
- (c) The placement of towers away from roadways;
- (d) The provision of effective screening; and
- (e) The location of communications equipment on existing structures.

B. Co-Location Exemption.

Proposed communications equipment co-locating on existing towers and structures without adding to their height shall require only a Zoning Permit and shall not be subject to the requirements of this section.

C. Stealth Tower Provision.

- (1) For the purposes of this section, the term "Stealth Tower" shall mean a communications tower not exceeding 120' in height designed to unobtrusively blend into its existing surroundings so as not to have the appearance of a communications tower and is designed to hide, obscure, or conceal the presence of the towers and antennas. Examples of Stealth Towers include, but are not limited to, antenna tower alternative structures, architecturally roof-mounted antennas, building-mounted antennas painted to match the existing or proposed trees and landscaping, antenna structures designed to look like light poles or electrical utility poles, artificial trees, clock towers, flagpoles, steeples, water towers or water tanks.
- (2) All proposed Stealth Tower designs must be approved by the Planning Director.
- (3) A complete zoning permit application for a Stealth Tower that meets all requirements of this Ordinance shall be approved.

D. Pre-Application Meeting.

Prior to submitting a formal application for a Zoning Permit for a Communications Tower the applicant is required to attend one or more pre-application meetings. The purpose of the pre-application meeting is to address key issues which will help to expedite the review and permitting process. The Planning Director may conduct a site visit at the pre-application meeting.

E. Zoning Permit Submittal Requirements.

Prior to Zoning Permit approval, all applications for Communications Towers shall complete the Site Plan Review process as provided in Section 12A-508. In addition to any Site Plan Review requirements, the application must contain the following items:

- (1) A site plan, drawn to engineer's scale, showing the location of the tower guy anchors (if any), existing or proposed buildings and structures or improvements, including parking, driveways or access roads, fences, and protected and Grand Trees affected by the proposed construction. If there are no Grand Trees affected, a surveyor's statement on the Site Plan must be shown. Adjacent land uses shall also be noted on the site plan, with precise measurements noted between the proposed tower and any residential structures on surrounding properties.
- (2) The site plan must show a vegetated buffer, either existing or installed, that provides an effective screen from public rights-of-way and adjacent property owners and across view corridors. If a buffer is to be installed, its placement on the site will vary in order to provide the most effective screening from public view. Required materials will be based on installation of a 25-foot buffer around the fenced area.
- (3) The height and typical design of the tower, typical materials to be used, color, and lighting shall be shown on elevation drawings. The applicant shall submit documentation justifying the total height of any Communications Towers, facility and/or antenna and the basis therefore.
- (4) Additionally, color and material samples shall be provided. The tower must be located no closer to a residential structure than a distance equal to one and a half (1.5) feet for each foot in height of the proposed tower plus fifty (50) feet as measured from the center of the proposed tower. At a minimum, there must be a one hundred-fifty (150) foot distance between the proposed tower and a residential structure.
- (5) A six (6) foot non-climbable fence must be placed around the tower and any associated building. Guy wires may be fenced separately.
- (6) The proposed tower must be located such that adequate setbacks are provided on all sides to prevent the tower's fall zone from encroaching onto adjoining properties. The fall zone shall be determined by an engineer certified by the State of South Carolina in a letter which includes the engineer's signature and seal.
- (7) For the purposes of co-location review and review of efforts at siting a tower on the same lot near an existing tower, the applicant shall submit satisfactory written evidence such as correspondence, agreements, contracts, etc., that alternative towers, buildings, or other structures are not available or suitable for use within the applicant's tower site search area that are structurally capable of



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

- (8) Proposed towers may not be located within one thousand (1,000) feet of the center of an existing tower unless the applicant certifies that the existing tower does not meet the applicant's structural specifications and the applicant's technical design requirements, or that a co-location agreement could not be obtained at a reasonable market rate. In the event of the above situation, the clustering of new towers on the same parcel near existing towers is permitted.
- (9) The proposed tower shall only be illuminated as required by the Federal Communications Commission or Federal Aviation Administration. Nighttime strobe lighting shall not be incorporated unless required by the Federal Communications Commission or Federal Aviation Administration. If lighting is required, Applicant shall provide a detailed plan for sufficient lighting that shall be as unobtrusive and inoffensive as permissible under State and Federal regulations, and an artist's rendering or other visual representation showing the effect of light emanating from the site on neighboring habitable structures within fifteen-hundred (1,500) feet of all property lines of the parcel on which the Communications Towers are located.
- (10) Communications Towers shall contain a sign no larger than four (4) square feet to provide adequate notification to persons in the immediate area of the presence of an Antenna that has transmission capabilities. The sign shall contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be located so as to be visible from the access point of the site. No other signage, including advertising, shall be permitted on any facilities, Antennas, Antenna supporting structures or Antenna Towers, unless required by law.
- (11) A copy of the tower's search ring.
- (12) To assure the removal of towers which do not meet requirements for continued use or proper maintenance, a statement of financial responsibility shall be submitted for each tower and a performance bond for the amount of anticipated removal costs shall be posted. The bond must be renewed as necessary to ensure that it is maintained at all times during the existence of the tower.

- (13) The Applicant shall furnish a Visual Impact Assessment which shall include:
- (a) A "Zone Visibility Map" which shall be provided in order to determine locations where the Tower may be seen.
  - (b) Pictorial representations of "before and after" view from key viewpoints both inside and outside the County, including but not limited to major highways and roads; state and local parks; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents.
  - (c) An assessment of the visual impact of the tower base, guy wires and accessory buildings from abutting and adjacent properties and streets

F. Retention of Expert Assistance and Reimbursement by Applicant.

- (1) The Town may hire any consultant and/or expert necessary to assist the Town in reviewing and evaluating the application, including the construction and modification of the site, once permitted, and any requests for recertification.
- (2) An applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of the consultant and expert evaluation and consultation to the Town in connection with the review of any application including the construction and modification of the site, once permitted. The initial deposit shall be \$8,500.00. The application will not be processed until receipt of this initial deposit. The Town will maintain a separate escrow account for all such funds. The Town's consultants/experts shall invoice the Town for its services in reviewing the application, including the construction and modification of the site, once permitted. If at any time during the process this escrow account has a balance less than \$2,500.00, the applicant shall immediately, upon notification by the Town, replenish said escrow account so that it has a balance of at least \$5,000.00. Such additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the application. In the event that the amount held in escrow by the Town is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant. The applicant shall not be entitled to receive any interest earnings on unused funds.

- (3) The total amount of the funds needed as set forth in subsection (2) of this section may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.

G. Surrounding Property Owner Notification.

- (1) In order to better inform the public, in the case of a new Communications Towers, the applicant shall hold a "balloon test" as follows: Applicant shall arrange to fly, or raise upon a temporary mast, a minimum of (3) three foot diameter brightly colored balloon at the maximum height of the proposed new tower. The dates, (including a second date, in case of poor visibility on the initial date) shall be provided to the Planning Director 10 days after receipt of the complete application notice. The dates shall be set at minimum 15 days prior to the Planning Director making a final decision on the Zoning Permit. The balloons shall be flown for ten consecutive hours between 8:00 a.m. and 6:00 p.m.
- (2) Once the application is deemed complete by the Planning Director for a Communications Tower Zoning Permit, the Planning Department shall provide Parties in Interest, Personal, Posted and Newspaper Notice in accordance with the requirements of Section 12A-502 of this Ordinance. The public notice shall include the dates of the balloon tests as provided by the applicant and the date the Planning Director must make a final decision on the Zoning Permit.

H. Time Limit for Staff Review.

Upon receipt of an application deemed complete by the Planning Director for a Communications Tower Zoning Permit, the Planning Director shall have a maximum of 45 days to act on the application. The 45 days begins from the date the applicant is sent written notice of a complete application from the Planning Director. Failure to act on the application within 45 days will result in the applicant being granted a Zoning Permit.

I. Zoning Permit Approval Criteria

- (1) A complete zoning permit application for a Stealth Tower that meets all requirements of this Ordinance shall be approved.
- (2) Upon review of a complete application, no Zoning Permit shall be issued for a communications tower, until the Planning Director determines that the proposed tower complies with the following criteria and standards:

- (a) That the location and height of the proposed tower will not substantially impact the character of property listed in or eligible for the National Register of Historic Places, other significant environmental, cultural or historical site officially designated scenic roads or rivers and that the tower is designed to blend into the environment and minimize visual impact.
  - (b) If a completely new tower is necessary, the applicant must provide written proof of attempts at co-location and siting a tower on the same lot near an existing tower were proven not feasible or practical.
  - (c) That the applicant has pursued any available publicly owned sites and privately owned sites occupied by a compatible use, and if not utilized, that these sites are unsuitable for operation of the facility under applicable communications regulations and the applicant's technical design requirements.
  - (d) Staff shall review and approve the color and materials to be used for the proposed tower.
  - (e) If the Planning Director finds a proposed communications tower will have a substantially negative impact on a surrounding area or adjoining property, the use shall fall under the Special Exception (S) provisions of this Ordinance.
- (3) In determining whether the use shall fall under the Special Exception (S) provisions the Planning Director may consider one or more of the following items:
- (a) The proposed use will be detrimental to adjacent land uses including historical sites;
  - (b) The proposed use will have a negative aesthetic visual impact;
  - (c) The proposed use will have an adverse affect on the environment (not including radio frequency emissions); and
  - (d) The proposed use is contrary to the public health, safety or welfare.

J. Tower Abandonment.

A tower that is not used for communication purposes for more than 120 days (with no new application on file for any communication user) is presumed to

be out of service and the owner of such tower must notify the staff and remove the tower within 50 days. Towers which are not maintained by the owner according to the Town Building Code shall be removed by the owner within 60 days. To assure the removal of towers which do not meet requirements for continued use or proper maintenance, a statement of financial responsibility shall be submitted for each tower and a performance bond for the amount of anticipated removal costs shall be posted. Removal costs shall be charged to the tower owner. The bond must be renewed as necessary to ensure that it is maintained at all times during the existence of the tower.

14. Convention Center or Visitors Bureau.

- A. Convention Center or Visitors Bureau using over a total of 10,000 square feet must comply with the Special Exception Provisions of this Ordinance.

15. Repair and Maintenance Services.

A. Consumer Repair Services.

- (1) Consumer repair services, including repair and servicing of appliances, shoes, watches, furniture, jewelry, musical instruments, or similar items, may only occur within an enclosed structure. No noise or other emissions from the structure are permitted.

B. Vehicle Service.

- (1) Limited Vehicle Service, including automotive oil change or lubrication operations and shall be conducted within an enclosed building. Vehicle storage shall be located in an enclosed building or in an opaquely screened yard.

16. Retail Sales and Retail or Personal Services.

Retail sales, display and storage of goods are permitted only within a designated building for that particular use.

17. Construction Services.

Contract construction services operations (e.g., contractor's shops, plumbing shops, heating and air conditioning shops, etc.) excluding construction sites for authorized development activities, shall be conducted within an enclosed building. Authorized development activities, for the purpose of this section, include the permitted installation, construction of buildings, structures or utilities at the site on which they will be used. Vehicle, equipment and materials storage at construction services offices shall be located in an enclosed building or in an opaquely screened yard.

## 18. Warehouse and Storage Facilities.

Warehouse and storage facilities shall be designed so that all stored items are located within a completely enclosed building, or are completely screened from view from adjacent property lines.

Portable storage units shall not be allowed to remain on any property for more than 72 hours within a week.

## 19. Vehicle Storage (including Boat or Recreational Vehicle Storage).

- A. Storage of boats, campers and other major recreational equipment, if provided, must be contained within completely enclosed buildings or opaquely screened storage areas on an approved lot. No such equipment shall be used for living, sleeping, or housekeeping purposes.
- B. Canoes and kayaks may be stored in a semi-enclosed storage rack which is suitably landscaped.

## 20. Recycling Services.

## A. Recycling Collection, Drop-Off.

- (1) Recycling collection and drop-off structures are limited to the following:
  - (a) Maximum dimensions: nine (9) feet in length by six (6) feet in width, and once installed, stands no more than five (5) feet above grade.
  - (b) Structure shall not be located on property zoned for residential use and must be located a minimum of ten (10) feet from any residential property line.
  - (c) Structure shall be surrounded by a landscaped buffer, as determined by the Planning Director pursuant to Section 12A-402.

## 21. Transportation.

## A. Bus Passenger Stands.

- (1) The design and location of bus passenger stands shall only be approved after completing the Site Plan Review Procedures contained within Section 12A-508.

**12A-303      ACCESSORY USES, BUILDINGS/STRUCTURES**

Purpose and Intent:

This section describes the standards for accessory uses.

1. Definition and Applicability.
  - A. Permitted uses and approved Special Exception uses shall be deemed to include accessory uses and structures that are necessarily associated with, and appropriate, incidental, and subordinate to the allowed principal use. Accessory uses and structures shall be subject to the same regulations that apply to principal uses and structures in each zoning district, unless otherwise expressly stated.
  - B. Permits for accessory uses and structures shall be issued by the Town of Kiawah Island Planning Director.
  - C. In a residential Zoning District, an accessory building or structure is a subordinate or incidental structure, attached to or detached from the principal building, which is not used for commercial purposes and which is not rented.
  - D. In nonresidential Zoning Districts, an accessory building or structure is a subordinate building or structure, the use of which is secondary to and supportive of the principal building.
  - E. Accessory buildings or structures shall not be permitted without a principal building or primary use being in existence.
  - F. Accessory uses include any use that is authorized in the district which is secondary or subordinate to the primary use.
2. Standards for Detached Accessory Dwelling Units in Residential Districts.

An accessory dwelling unit to be occupied by family members or caretakers may be allowed as an accessory use to the principal dwelling unit under the following conditions:

- A. No detached accessory dwelling unit may be constructed on a lot less than 15,000 square feet;
- B. The detached accessory dwelling unit may not be sold separately from the sale of the entire property, including the principal dwelling unit, and shall not be leased or sublet;
- C. The detached accessory dwelling unit shall comply with all required building setbacks for the principal residential use and shall be located in the

buildable area of the lot;

- D. The overall height of a detached accessory dwelling shall be limited to one story, provided that an accessory dwelling may be located over a garage;
  - E. When an accessory dwelling is directly attached to the principal dwelling with a roof connection of a minimum of four feet in width, or a wall connection of a minimum of four feet in height, it shall be considered an integral part of the main building and not a detached accessory dwelling unit; and
  - F. Detached accessory dwellings shall not exceed 1,500 square feet of heated area.
3. Standards for Accessory Dwelling Units in Existing Structures and Nonresidential Districts.
- A. Accessory dwellings for non-residential structures shall be solely for use by full-time caretakers of the structure. Such dwellings shall have at least one access through the business that employs the caretaker;
  - B. The overall height of an accessory dwelling shall be limited to one story, provided that a garage apartment or nonresidential caretaker's quarters may be located over a garage.

4. Standards for Accessory Buildings in Residential Districts.

Accessory buildings may be allowed in residential Zoning Districts pursuant to the following conditions:

- A. No accessory building may be constructed on a lot less than 15,000 square feet;
  - B. Detached accessory buildings shall be prohibited from being placed in front of the principal building and shall be placed in the rear yard. Except that a detached accessory use may be constructed in front of the principal residence where the residence backs up to a beach, golf course, lagoon or marsh and is only permitted after approval as a Special Exception. Accessory buildings will be located within the buildable area of the lot as delineated by the setback requirements.
  - C. Sub-leasing or renting an accessory building separately from the primary use shall constitute a violation of this Zoning Ordinance.
5. Standards for Accessory Structures in Residential Districts.

Accessory structures may be allowed in residential districts under the following conditions:



- A. Private swimming pools, along with incidental installations such as pumps and filters, may not be located in the front yard. A pool shall be set back a distance of not less than ten (10) feet from all lot lines, except that a pool that is elevated more than four (4) feet above the average natural ground level at the nearest property line shall comply with required building setbacks. All swimming pools shall be gated and fenced. The fence height shall be five (5) feet.
- B. Private tennis courts shall not be constructed within twenty (20) feet of any adjoining property under other ownership. Tennis court fences or walls shall not exceed twelve (12) feet in height, and no lights for the tennis court shall be permitted.
- C. Fences shall be limited to landscaped hedgerows of dense plant material and/or wooden, masonry or wrought iron material, all of which are required to be architecturally integrated with development of the lot or parcel. Fences shall not exceed five (5) feet in height from grade for residential development, provided, however, that this five (5) feet height restriction shall not apply to the hedgerow portion of any fence or to a fence consisting completely of a hedgerow. This five (5) feet height restriction shall apply to any gate or gates in any fence of any kind. Solid wood fences shall not be permitted in front yards. Fences (excluding the use of plant material) shall not be permitted within five (5) feet of a side or rear property line. Fences taller than three (3) feet from pavement shall not be located within a sight triangle. Fence heights and setback restrictions shall not apply to the patio wall of patio homes. In measuring the height of a fence to determine whether it complies with the height restrictions, the measurement shall be made to the uppermost portion of the fence, and, if there is anything affixed to or regularly placed or resting thereon, including, without limitation, decorative or ornamental elements or features, all of which shall be considered a part of the fence for the purposes of this ordinance, then the height measurement shall be to the top of any such thing, element or feature.

#### 12A-304 HOME OCCUPATIONS

##### Purpose and Intent:

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

1. All home occupations must comply with the following conditions:
  - A. The use of the dwelling unit in connection with an occupation shall be deemed to be clearly incidental and subordinate to its use for residential

purposes if the home occupation occupies no more than twenty-five percent (25%) of the heated and cooled square footage of the residence, and no more than twenty-five percent (25%) of the garage or other enclosed areas which may be utilized to store supplies or materials associated with the home occupation.

- B. No employee(s) other than persons residing on the premises shall be engaged in the activities of the home occupation.
- C. There shall be no exterior displays, no exterior storage of equipment, including unlicensed equipment and materials, vehicles with business logos, and no exterior indication of the home occupation which may change the outside appearance of the principal residence or change the residential character of the building.
- D. No on-premises advertising for the home occupation shall be allowed, nor shall advertisement of the address of the property to attract customers, clients or the public to the premises allowed. Window areas must not purposely or intentionally be used as display areas or offer merchandise for sale.
- E. Home occupations shall not require internal or external structural alterations of the principal residence or require the installation of equipment or machinery creating utility demand, noise, fumes or other impacts in excess of equipment or machinery that is customary in a residential area.
- F. The home occupation shall take place entirely within the residential dwelling.
- G. No open lot storage shall be permitted in connection with a home occupation.
- H. No pedestrian or vehicular traffic shall be generated by the home occupation.
- I. No home occupation requiring any equipment or processing which creates noise, vibration, glare, fumes, odors, smoke or dust which disturb neighbors and/or alters the residential character of the premises shall be permitted.
- J. No electric devices may be used in any home occupation which may cause electrical interference or create visual and audible interference in any radio or TV receivers causing fluctuations in the line voltage off the premises.
- K. Delivery trucks shall not operate out of a residential area as a function of a home occupation.
- L. Offices for professional or business activities may be permitted provided, however, that they adhere to the provisions of this Ordinance and that they

do not violate any condition prescribed herein.

2. The following occupations, professions, and business activities and those of a similar nature are some of, but not intended to be a complete list of prohibited home occupations:
  - A. Clinics, hospitals,
  - B. Funeral homes, mortuaries;
  - C. Animal/veterinary clinics;
  - D. Restaurants;
  - E. Large scale repair services;
  - F. Construction activities;
  - G. Ambulance services;
  - H. Taxi-services;
  - I. Beauty salons, barber shops; and
  - J. Vehicle sales or parts sales.
3. This section does not permit the establishment of unlisted home occupations unless they comply with all other standards and conditions of these Zoning Regulations.

#### **12A-305    TEMPORARY USES**

Purpose and Intent:

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

1. Temporary zoning permits are obtained from the Town of Kiawah Island Planning Director.
2. Temporary Buildings and Temporary Building Material Storage Areas.
  - A. Temporary buildings and temporary building material storage areas may be used for construction purposes on a site which is not yet occupied.
  - B. Such buildings may be permitted for a specific period of time in accordance with a permit issued by the Planning Director, subject to periodic renewal for cause shown.

- C. Temporary permits shall be issued only if adequate parking and sanitation facilities are provided to serve the proposed use or activity.
  - D. Upon completion or abandonment of construction or expiration of the permit, such temporary buildings and building material storage areas shall be removed to the satisfaction of the Planning Director.
3. Special Events.
- A. A temporary zoning permit shall be issued for public assembly use and for events of public interest. Temporary zoning permits shall be issued for a specific period of time in accordance with a permit issued by the Planning Director, subject to periodic renewal for cause shown. Such permit may be extended by the Planning Director. Examples of special events include: concerts, religious and/or cultural events, sports tournaments or competitions, and parking for special events.
  - B. Temporary buildings associated with special events may be used on the site which the event is to take place.
  - C. Such buildings shall be permitted for a specific period of time in accordance with a permit issued by the Planning Director, subject to periodic renewal for cause shown.
  - D. Temporary permits shall be issued only if adequate parking and sanitation facilities are provided to serve the proposed use or activity.
  - E. Upon completion or abandonment of the special event or expiration of the permit, such temporary buildings and associated equipment shall be removed to the satisfaction of the Planning Director.

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## CHAPTER IV - SUPPLEMENTAL REGULATIONS

### 12A-401      ADEQUATE PUBLIC FACILITIES REGULATIONS

#### Purpose and Intent:

The regulation of public facilities is intended to provide high quality, orderly and controlled development while allowing for community growth and maintaining the residential character of the Town.

1. Land proposed for development must be served by essential community facilities and services (water, sewer and access) which are available at the time of occupancy and adequate to support the proposed development. Land shall not be approved for development unless and until adequate community facilities exist or provision has been made for the development of water facilities, wastewater facilities, drainage facilities, electric power, and streets which are necessary to serve the development proposed at the time the development is occupied, whether or not such facilities are to be located within the property being developed or off-site.
2. All buildings must have access to a public water system which is capable of providing water for health and emergency purposes, including adequate fire protection. Water systems shall meet the minimum standards established in the Town of Kiawah Island Fire Code.
3. All platted lots must be served by an approved means of wastewater collection and treatment.
4. Proposed streets shall provide a safe, convenient and functional system for vehicular and pedestrian circulation, shall be consistent with the Comprehensive Plan and any amendments thereto, and shall be appropriate for the particular traffic characteristics of each proposed development.
  - A. This section provides a set of performance standards for the Kiawah River Bridge (Bridge) and the Kiawah Island Parkway (Parkway). The standards of this section are meant to maintain the performance of these facilities in terms of the volume of traffic thereon and the ratio of that volume to the maximum capacity of the facility. Critical traffic volumes and frequencies of their occurrence are used in accordance with paragraph B of this section to specify the point at which Traffic Mitigation Plans and Traffic Mitigation Measures will be required.

As traffic volume on any Link of the transportation facilities approaches full capacity, it will become necessary to expand the capacity of that Link. Two important factors should be considered in deciding when Traffic Mitigation Measures are needed.

First, traffic on the Bridge and Parkway should not be required to fully reach capacity volumes before Traffic Mitigation Measures are mandated. Near Capacity Traffic Volumes will result in congestion, delay, and driving discomfort, which can be avoided if sufficient lead time is provided between the decision to build and the actual construction of Traffic Mitigation Measures. Traffic volumes should exceed only a specified percentage of capacity in order to require Traffic Mitigation Measures.

Second, infrequent peaking of traffic volumes at or near capacity due to special events or circumstances does not, alone, justify the expansion of the transportation facilities. Traffic volumes should approach capacity with a specific regularity in order to require Traffic Mitigation Measures.

Traffic Mitigation Measures approved by the Town shall be required whenever a specified traffic volume is reached. A phased process whereby a Developer will plan and provide approved Traffic Mitigation Measures is described in Paragraph C of this section.

- B. Traffic counts will be conducted by the Town on the Bridge and Parkway three (3) times per year in accordance with paragraph C of this section. The traffic counts will be used to evaluate the existing traffic conditions during the summer peak and during time periods on each side of the peak season during the times specified in paragraph C of this Section.

If for any three consecutive days during these count periods traffic volume for any peak hour exceeds 70 percent of peak hour capacity (defined herein as "Near Capacity Traffic Volume") of any Link of the Bridge or Parkway, the data shall be formally submitted to the Developer. The Developer will submit for Town approval (which approval shall not be unreasonably withheld) a Traffic Mitigation Plan for each affected Link. Traffic Mitigation Plans will propose Traffic Mitigation Measures which shall reduce traffic volume below Near Capacity Traffic Volume or increase roadway capacity for each affected Link.

Upon Town approval of a Traffic Mitigation Plan, the Developer shall begin construction of improvements and implement approved Traffic Mitigation Measures within six months. The Developer may submit Traffic Mitigation Plans and implement approved Traffic Mitigation Measures at any time prior to the above traffic conditions being reached. Traffic Mitigation Measures include improvements and/or traffic management strategies to restore or maintain acceptable levels of service for a roadway Link or Links include but are not limited to: turn lane additions, acceleration/deceleration lanes, other road widening alternatives, and other measures to decrease traffic volume or increase roadway capacity.

For the purpose of determining when 70 percent of capacity is reached, peak hour capacity for each lane shall be (a) 1,700 vehicles per hour (VPH) for the existing Bridge and (b) 1900 VPH for the existing Parkway. Near Capacity Traffic Volume shall be 1,190 VPH for each lane for the existing Bridge and 1,330 VPH for each lane for the existing Parkway, with both of these volumes measured under conditions of free traffic flow.

- C. Traffic counts will be conducted annually during the first two weeks of June (June 1-14), the second and third week of July (July 8-22) and the last two weeks of August (August 17-31) at each of the intersections along the Parkway and peak hour travel time runs will be conducted from the Parkway's intersection with Betsy Kerrison Parkway to its intersection with Governor's Drive. The traffic counts and travel time runs will be used to evaluate Near Capacity Traffic Volume during the summer peak and during periods on each side of the peak season. The data will be used to calibrate an appropriate traffic simulation model for the Town.

The model will be used to evaluate the impact of proposed development and mitigation measures on the capacity of the Parkway and Bridge between Betsy Kerrison Parkway and the Vanderhorst security gate. The model network will be formed using data collected from an inventory of field observations, including: intersection spacing, intersection layout, peak hour turning movement counts, traffic counts and travel time studies throughout the Parkway and Bridge corridor. The network will be segmented into individual Links as shown in Table 4A - Near Capacity Travel Volumes.

The Links shown in Table 4A include specific intersections along the Parkway and allow the investigation of traffic flow characteristics for each localized area. Traffic flow interruptions for the security gates will be incorporated into the model, with regular model calibration to reflect actual traffic observations.

5. Except as otherwise provided by state law, drainage improvements shall accommodate potential runoff from the entire upstream drainage area and shall be designed to prevent overloading the capacity of the downstream drainage system. The Town may require the use of control methods such as retention or detention, and/or the construction of off-site drainage improvements in order to mitigate the impacts of the proposed development.
6. Sites and convenient access for parks and other community services should be consistent with the Town's Comprehensive Plan.



**Table 4A - Near Capacity Travel Volumes**

Link #	Link Description	Near Capacity Traffic Volume (VPH) (Per Lane)
Link 1	Kiawah Island Parkway/Roundabout	1,330
Link 2	Kiawah Island Parkway/Beachwalker Drive intersection including the potential commercial concentration between the Bridge and the General Store	1,330
Link 3	Kiawah Island Parkway/Kiawah Beach Drive intersection	1,330
Link 4	Kiawah Island Parkway/Surf Watch Drive/Sea Marsh Drive intersection	1,330
Link 5	Kiawah Island Parkway/Green Winged Teal Road intersection	1,330
Link 6	Kiawah Island Parkway/Sea Forest Drive West intersection	1,330
Link 7	Kiawah Island Parkway/Sea Forest Drive East intersection	1,330
Link 8	Kiawah Island Parkway/Sanctuary Beach Drive (Sanctuary Hotel) intersection	1,330
Link 9	Kiawah Island Parkway/Green Dolphin Way	1,330
Link 10	Kiawah Island Parkway/Governor's Drive intersection	1,330
Link 11	Kiawah Island Parkway Bridge (outside front gate)	1,190

**12A-402 COMPATIBILITY STANDARDS: BUFFERING****Purpose and Intent:**

The intent of these compatibility buffering standards is to provide development flexibility and discretion to applicants, while providing adequate assurances to existing and future property owners that the use and design of new developments will be compatible with that of existing adjacent development. Specifically, that sufficient buffering and screening will be provided between and among existing and new developments and especially where zoning changes.

1. The following three (3) standards shall apply for all new development:
  - A. Density equal to adjacent lots or parcels;
  - B. Designation for the same use as adjacent lots or parcels; and
  - C. Identical lot standards for adjacent lots or parcels.

2. If the proposed development does not satisfy these three (3) conditions, bufferyards shall be required as specified in Table 4B and Table 4C and in Section 12A-402.
3. Table 4B shows the minimum requirements for bufferyard types I, II, and III.

**Table 4B: Bufferyard Definitions**

Bufferyard Type	Minimum Requirement
I	35 ft. wide average with natural or densely planted vegetation and a minimum width of not less than 25 feet for not more than 10% of its length
II	50 ft. wide average with natural or densely planted vegetation and a minimum width of not less than 35 feet for not more than 10% of its length
III	75 ft. wide average with natural or densely planted vegetation and a minimum width of not less than 50 feet for not more than 10% of its length

In addition to the criteria listed in Table 4B, the following shall also apply:

- A. Bufferyards and open spaces shall be provided on the site of the new development, regardless of existing setbacks, except that existing golf courses or dedicated open space areas may be counted towards bufferyard requirements.
  - B. Natural bufferyards are those for which the vegetation has been permitted to grow through natural succession to include trees which are at least twenty (20) feet tall with thickly vegetated understory growth.
  - C. Densely planted bufferyards shall include a variety of trees and understory plantings which will mature to create an opaque bufferyard within five (5) years of planting.
  - D. Open bufferyards include golf courses, water bodies, and other areas where vegetation does not completely visually screen adjacent land uses.
  - E. Design and plant material shall be determined by the Planning Director provided, however, that the Planning Director shall reasonably determine whether or not the specific planting criteria for vegetative bufferyards have been met.
4. Table 4C shows bufferyard requirements between and among residential, commercial, resort and other zones. The Planning Director shall determine the type of bufferyard based on Table 4C. Any zoning district not represented in Table 4C shall follow the bufferyard standards for commercial, office or resort zoning.

**Table 4C: Required Bufferyards**

Existing Development	Proposed Development				
	R-1	R-2	R-3	Commercial, Office or Resort	Commercial, Office or Resort across street
R-1	none	I	II	III	III
R-2	I	none	I	II	III
R-3	II	I	none	I	III
Commercial, Office or Resort	III	II	I	none	III
Commercial, Office or Resort across street	III	III	III	III	none

- A. If bulk, height and area standards for new developments do not reflect the development standards established on existing R-1 lots, a Type I bufferyard must be provided.
- B. Bufferyards may be included within required building setbacks.
- C. Bufferyards at the edges of marshes, lakes, ponds or dunes and/or at the critical line shall be natural for at least three (3) feet into the property.

**12A-403      SECTION RESERVED FOR FUTURE USE**

**12A-404**      **SECTION RESERVED FOR FUTURE USE**

**12A-405**      **ACCESS, PARKING AND LOADING REGULATIONS**

Purpose and Intent:

The following regulations are intended to aid in the design and location of proper access, parking, and loading areas in order to maintain safe and efficient traffic flow.

1.      Access/Driveways.

The following regulations shall apply to all development to prevent the proliferation of poorly spaced driveways that can result in reduced safety and carrying capacity of community streets, except that the distances may be varied in accordance with Section 12A-508 to permit the construction of a single, safe access where no other access to a lot is possible.

- A.      Generally, any lot having access to more than one type of street shall provide access on the street designed for the lowest traffic volume.
- B.      Non-residential properties having access to a minor and collector street may construct a single driveway on the collector street, provided that the driveway complies with the standards herein.
- C.      There shall be only one (1) curb cut for an individual lot or parcel. Town approval shall be required for more than one curb cut to an individual lot or parcel from any street, where there is a compelling reason.
- D.      No lot or development parcel shall directly access Kiawah Island Parkway and the arterial portions of Governor's Drive and Flyway Drive.
- E.      Private residential driveways shall be a minimum of 10 feet in width and provide a vertical clearance of a minimum of 13.5 feet. Non-residential driveways shall be a minimum of 18 feet in width and provide a vertical clearance of a minimum of 13.5 feet.

2.      Spacing Between Driveways and Intersections.

The centerline of driveways shall be separated from the centerline of other driveways and intersections in accordance with Table 4D, excepting lots platted prior to adoption of these Zoning Regulations and where relief is needed to protect essential natural features, such as specimen trees and dunes.

**Table 4D: Driveway Separation Regulations**

Road Type	Minimum driveway separation (feet)
Arterial	driveways prohibited
Collector	75
Minor	no spacing limitation

- A. No driveway shall be permitted providing access to an arterial street if the property has access to a collector or minor street.
- B. On minor streets, no driveway should be permitted within sixty (60) feet of an intersection, except when relief is needed due to an existing tree, unusual lot configuration, wetlands or other topographical or geographic feature of the lot.
- C. When channelized right turn lanes are used, the Planning Director shall determine the minimum spacing between the driveways and intersections based on AASHTO standards as modified by site-specific conditions.

3. Parking and Loading.

This section specifies the minimum parking and loading standards for the Town. Where strict interpretation of these standards creates a unique hardship, an individual may seek a variance pursuant to Section 12A-509.

A. Minimum Parking Requirements.

Each use shall provide the number of parking spaces specified in Table 4F and comply with the following:

- (1) The Planning Director shall determine the number of parking spaces required for uses not referenced in Table 4F by first applying the standard for the most similar use or uses as listed in the table. If there is no similar use, the Planning Director may make a determination or may request that the Applicant undertake a parking study.
- (2) Any fraction of a parking space required under these regulations shall be counted as a full parking space.
- (3) Handicapped spaces shall be provided as required by the Americans with Disabilities Act (ADA) standards shown below in

Table 4E, or as requirements are amended by Federal Law.

- (4) Parking requirements shall be based on gross leasable area.
- (5) Off-street parking facilities shall be provided for any new building constructed and for any new use established, for any addition or enlargement of an existing building or use, or for any change of occupancy or manner of operation that would result in additional parking spaces being required. Provided however, if insufficient parking exists on a lot or parcel, then the number of spaces required to meet the needs of both the existing and new buildings or uses shall be provided.
- (6) Facilities being used for off-street parking on the effective date of these regulations shall not be reduced in capacity to less than the number of spaces prescribed, nor shall they be altered in design or function to less than the minimum standards prescribed herein.
- (7) For sites with more than one use, or for adjacent sites served by a common parking facility, the parking requirement shall be the total number of spaces required for each site or use.

B. Accessible Parking for Physically Disabled Persons.

Handicapped spaces shall be provided as required by the Americans with Disabilities Act (ADA) standards shown below in Table 4E.

**Table 4E: Minimum Number of Accessible Spaces for Physically Disabled Persons**

TOTAL PARKING SPACES PROVIDED	MINIMUM NUMBER OF ACCESSIBLE SPACES	MINIMUM NUMBER OF VAN-ACCESSIBLE SPACES	MINIMUM NUMBER OF CAR-ACCESSIBLE SPACES
1-25	1	1	0
26-50	2	1	1
51-75	3	1	2
76-100	4	1	3
101-150	5	1	4
151-200	6	1	5
201-300	7	1	6
301-400	8	1	7
401-500	9	2	7
501-1,000	2% of total spaces	1 out of every 8 accessible spaces	7 out of every 8 accessible spaces
Over 1,000	20 + 1 per each 100 spaces over 1,000		

(1) Minimum Dimensions.

All parking spaces reserved for persons with disabilities shall comply with the parking space dimension standards of this section, provided that access aisles shall be provided immediately abutting such spaces, as follows:

(a) Car-Accessible Spaces.

Car-accessible spaces shall have at least a 5-foot wide access aisle located abutting the designated parking space.

(b) Van-Accessible Spaces.

Van-accessible spaces shall have at least an 8-foot wide access aisle located abutting the designated parking space.

(c) All accessible spaces shall be in close proximity to the main entrance of the facility being served.

**Table 4F: Off-Street Parking Requirements**

Type of Development	Required # of Parking Spaces (1)
Residences Single Family Detached Duplex Patio Homes Town houses Multiple-Family	2 spaces per dwelling unit (DU) (2) 2 spaces per DU 2 spaces per 2 BR per DU 2.5 spaces per 3 or more BR per DU 1.5 spaces per efficiency or 1 bedroom (BR) per DU
Hotels Guest Rooms Conference Area (Part of Hotel Structure) Bars & Lounges  Other Uses (2)	1.25 spaces per room 1 space per 4 persons allowed under maximum occupancy 1 space per 75 square feet of indoor seating area plus 1 per 200 square feet of outdoor seating area 50% of parking required for other uses
General Office Real Estate Sales/Leasing Doctor/Dentist Office	1 space per 300 square feet of GLA 1 space per 100 square feet of GLA 1 space per 100 square feet of GLA
Retail/Service	1 space per 250 square feet of GLA
Restaurant	1 space per 75 square feet of indoor seating area plus 1 per 200 square feet of outdoor seating area
Religious Activities & Public Assembly	1 space per 50 square feet of assembly area
Convention Center (not accessory to hotel)	1 space per 4 persons allowed under maximum posted occupancy plus 1 per employee in shift
Community Services	1 space per 2 employees plus 1 per company car parked on the premises
Recreational Driving Range Golf Courses  Tennis Courts  Marinas Swimming Pool Food and Beverage  Other Recreational Facilities - Indoor Parks (Note: in addition to any of the above)	1.5 spaces per tee 4 spaces per hole plus 50% of the other uses plus 1 space per employee on the largest shift (3) 2 spaces per court plus 50% of the other uses plus 1 space per employee on the largest shift (3) 3 spaces per 4 slips plus 50% of the other uses (3) 1 space per 300 square feet pool and deck area 1 space per 75 square feet of indoor seating area plus 1 space per 200 sq. ft. of food service area 1 space per 300 sq. ft. 1 space per 2 acres with minimum of 3 spaces
Mixed Use Parking	Calculated per individual use as above.

(1) The Planning Director may determine that parking in addition to any of the above is necessary in the form of overflow parking on pervious surfaces.

(2) Single family residences shall have adequate turn-around space along driveways so that vehicles do not need to back into or out of driveways.

(3) Other uses may include accessory meeting rooms/convention facilities and accessory restaurants.

### C. Parking Design Standards.

The following are minimum design standards; the Planning Director may require modifications to parking lot design to ensure the safety of



pedestrians, bicyclists and motorists.

- (1) All off-street parking shall be located outside of required landscape buffer areas and behind front building lines.
- (2) Parking facilities constructed, or reconstructed greater than fifty percent (50%) of their original size, subsequent to the effective date of these zoning regulations shall conform to these design standards.
- (3) All required parking facilities shall be maintained for the duration of the use requiring such facilities. Parking facilities shall be used exclusively for the temporary parking of passenger automobiles, motor vehicles or light trucks not exceeding one ton in capacity, and shall not be used for the sale, display or storage of merchandise, or for the storage or repair of vehicles or equipment.
- (4) All required parking facilities shall be located on the same site as the use for which such facilities are required.
- (5) On Street head-in parking is prohibited.
- (6) Angled parking is prohibited.
- (7) Required parking for residential uses shall be provided within an enclosed garage.
- (8) Each standard parking space shall consist of an independently accessible rectangular or trapezoidal area.
- (9) Each parking space shall have a vertical clearance of at least 7.5 feet.
- (10) Each parking and loading area shall have adequate drives, aisles, and turning and maneuvering areas for access and usability, and shall at all times have access to a street or alley.
- (11) The minimum parking facility design standards are listed in Table 4G.
- (12) Where applicable, the Planning Director may require overflow parking spaces in addition to those required in Table 4F. All overflow parking spaces shall be of a pervious surface.
- (13) Required parking spaces shall not have direct access to a street or highway. Access to required parking spaces shall be provided by

on-site driveways. Off-street parking spaces shall be accessible without backing into or otherwise reentering a public right-of-way.

**Table 4G: Minimum Parking Facility Design Standards**

Parking Pattern (Degrees)	Maneuvering Lane Width (feet)		Parking Space Dimensions (feet)		Total Width of 2 Tiers of Spaces & Maneuvering Lane (feet)	
	One Way	Two Way	Width	Length	One Way	Two Way
0 (Parallel)	11	18	8.5	25	28	35
30 - 50	12	20	9	18	48	56
54 - 75	13	22	9	18	49	58
76 - 90	N/A	24	9	18	N/A	60

D. Markings.

- (1) In paved parking areas, each off-street parking space shall be identified by surface markings at least four (4) inches in width. Marking shall be visible at all times. Such markings shall be arranged to provide for orderly and safe loading, unloading, parking and storage of vehicles.

E. Off-Street Loading Requirements.

- (1) Spaces Required.

For every non-residential use there shall be provided sufficient space to accommodate the maximum number of trucks that will be loading, unloading, or standing at any one time.

- (2) Size of Space.

Each off-street loading space shall be of a size commensurate with the buildings to be accommodated. In no case shall required off-street loading space encroach upon off-street parking space required by this Ordinance.

- (3) Location.

All required off-street loading spaces shall be located on the same lot as the building which they are intended to serve.

- (4) Entrances and Exits

Off-street loading entrance and exit drives shall be located at least 25 feet from any street intersection.

(5) Loading Spaces Adjacent to Sidewalks.

Where a loading space is adjacent to a public sidewalk or other public pedestrian way, it shall be so located, arranged, and improved with curbs or other barriers, as to provide adequate protection for pedestrians.

(6) Maneuvering Areas.

All off-street loading spaces shall be provided with adequate off-street maneuvering areas.

**Table 4H: Loading Requirements**

Gross Floor Area in Square Feet	Loading and Unloading Spaces Required
0 - 1,999	None
2,000 – 4,999	1 space at the discretion of the Planning Director
5,000 – 19,000	1 space
20,000 – 99,000	1 space plus one space for each 20,000 sq. ft. or portion thereof in excess of 20,000
100,000 or more	5 spaces plus one space for each 40,000 sq. ft. or portion thereof in excess of 100,000 sq. ft.

F. Parking, Loading and Vehicular Use Area Landscaping.

(1) Parking, Loading and Vehicular Area Perimeters.

Unless otherwise expressly stated, perimeter landscaping shall be required around the outer perimeter of all off-street, surface parking, loading and vehicular use areas. Parking areas for the exclusive use of single-family dwellings shall be exempt from these requirements. Any off-street parking, loading or vehicular use area that will be entirely screened from view by an intervening building or structure or by a buffer provided to satisfy requirements contained elsewhere in this Ordinance shall also be exempt from these (parking, loading and

vehicular use area) perimeter landscaping requirements.

(2) Perimeter Landscape Requirements.

- (a) A curbed perimeter landscape area at least 10 feet in depth shall be provided at the perimeter of all off-street parking, loading and vehicular use areas, except where permitted driveway openings are to be provided. Where drainage or other utility easements exist along property lines, the perimeter landscape area shall be located adjacent to the easement.
- (b) Required perimeter landscape areas shall be planted in accordance with the following minimum standards:
  - (i) One canopy tree shall be provided for each 50 linear feet of parking, loading or vehicular use area perimeter. These trees may be used to satisfy the interior parking lot landscaping requirements;
  - (ii) A hedge or other landscape material of at least 3 feet in height (at maturity) shall be planted within the perimeter landscape area to provide a continuous landscape element, or a combination of trees, hedge, other durable landscape material or approved wall, fence or earth berm may be used to form the continuous landscape element;
  - (iii) All portions of the perimeter landscape area not planted with shrubs or trees or covered by a wall or fence barrier shall be planted in grass or ground cover; and
  - (iv) Parked vehicles may overhang a landscaped area if curbing is installed to prevent any damage to plants within the required perimeter landscape area. Landscaping, walls, fences and earth berms will be located to prevent their damage and/or destruction by overhanging vehicles.

(3) Interior Areas Landscape Requirements.

The following interior parking lot landscaping requirements shall apply to all parking lots except those exclusively serving single-family residential uses.

- (a) A minimum of one (1) landscape island shall be provided for each 10 parking spaces within an off-street parking area. Required landscape islands shall have a minimum of 325 square feet, variably dependent upon the species of the canopy tree proposed by the designer. Each parking lot bay must terminate with a tree island.
- (b) Each required landscaping island shall contain at least 1 **canopy tree and there shall be at least 1 canopy tree per 10** parking spaces within the off-street parking area. Double loaded interior parking landscape islands are to be no less than ten (10) feet wide and canopy trees planted in these islands are to be planted in line with parking stripes (between vehicles).
- (c) Curbs, wheel stops or other approved protective barriers shall be installed around all required landscape islands, as approved by the Planning Director.
- (d) Landscaping provided to meet the right-of-way buffer standards of this Ordinance may not be used to satisfy interior parking lot landscaping requirements. Canopy trees provided to meet perimeter landscaping requirements may be counted to satisfy interior parking lot landscaping requirements.

G. Paving and Drainage.

- (1) For all uses except single family dwellings, parking and loading facilities shall be surfaced and maintained with asphaltic concrete or other permanent hard surfacing material sufficient to prevent mud, dust, loose material and other nuisances. Pervious materials may be allowed as approved by the Planning Director.
- (2) All parking and loading facilities shall be designed, graded and provided with permanent storm drainage facilities that prevent standing water on any parking area, and do not increase the flow of water onto adjacent properties, streets or alleys.

## CHAPTER V - GENERAL PROCEDURAL REQUIREMENTS

### 12A-501      GENERAL

These requirements cover, but are not limited to: Comprehensive Plan Amendments, Code Text Amendments, Zoning District Map Amendments, Planned Developments, Special Exceptions, Site Plan Review, Variances, and Zoning Permits.

1.      Authority to File Applications.

Unless otherwise expressly stated, applications for review and approval under this chapter may be initiated by (1) petition of all the property owners that is the subject of the application; (2) the owners' authorized agents; or (3) Review and Decision-Making Bodies.

2.      Form of Application.

Applications required under this section shall be submitted in a format and in such numbers as required by the official responsible or accepting the application. Application submittal requirements and format information shall be available to the public in the Planning Department.

3.      Filing Fees.

Applications shall be accompanied by the fee amount that has been established by the Town Council for the respective type of application. Fees shall not be required for applications initiated by authorized Review or Decision-Making Bodies.

4.      Application Submittal.

- A.      Applications shall include all mandatory information at the time of submittal. Any application that does not include all required information shall be returned, within 15 working days of its submittal, to the applicant along with an explanation of the application's deficiencies.
- B.      Whenever the procedures of this Ordinance expressly state that applications are to be submitted after a "pre-application conference", applicants shall be responsible for scheduling and attending such meetings. When pre-application conferences are required, an application shall not be accepted until the pre-application conference has been conducted.

5. Action by Decision-Making Bodies.

Unless otherwise expressly stated, Decision-Making Bodies shall be authorized to approve, approve with conditions, or deny applications and permit requests based on compliance with the applicable review and approval criteria. Decision-Making Bodies shall also be authorized to refer an application back to a review body or to defer action while additional information is being obtained.

6. Inaction by Review and Decision-Making Bodies.

When a Review or Decision-Making Body fails to take action on an application within the time required, such inaction shall be interpreted as a recommendation of approval of the application, respectively. Time-frames for action may be extended if the applicant consents to the extension. When a review body fails to take action on an application within the time required, the Decision-Making Body shall be free to proceed with its own action on the matter without further awaiting the recommendation of the review body.

7. Conditions of Approval.

Unless otherwise expressly stated, Decision-Making Bodies shall be authorized to impose conditions of approval as allowed by law. Conditions may be those deemed necessary to reduce or minimize any potential adverse impact upon other property in the area or to carry out the general purpose and intent of this Ordinance. All conditions must relate to a situation created or aggravated by the proposed use and be roughly proportional to the impact of the approved use or activity.

8. Approval Criteria; Burden of Persuasion.

In all cases, the applicant shall have the burden of establishing that an application complies with applicable approval criteria.

9. Successive Applications.

A. Time Limit.

If a final Decision-Making Body denies an application for a Zoning Map Amendment, Planned Development or Special Exception use, a subsequent related application shall not be accepted for 12 months from the date that the Decision-Making Body acted to deny the application. These would include, but not be limited to applications for the same or more intensive zoning, development or use on the subject parcel, whether the parcel is in its original configuration, expanded or reduced in area.

B. Waivers.

The time limit of Section 12A-501.9.A notwithstanding, Decision-Making Bodies may, after receipt of written petition by the property owner waive the waiting period requirement by a 2/3 vote of members present and voting. If the time limit is waived, the Decision-Making Body shall give written notice to the Planning Director, directing staff to process the application. All re-submissions shall be processed as new applications, with prescribed fees. All documents and fees required for the respective type of application shall be included with the new application. Denial of the application shall be final and the 12-month waiting period shall be met before further consideration of a similar application on the subject property.

When a waiver is granted, the reasons for such waiver shall be enumerated. Criteria for granting a waiver should include:

- (1) There are extraordinary and exceptional conditions pertaining to the application;
- (2) There would be compelling, substantial and serious hardship on the applicant. This does not include economic hardship;
- (3) The application withdrawal was not the result of the applicant's own actions.

C. Applications Withdrawn Before Public Hearing Notice.

Withdrawal of an application by the applicant before advertisement of any public hearing shall be considered a termination of the application. Although no fees shall be refunded, re-application in such cases shall not be subject to the 12-month waiting period.

D. Applications Withdrawn After Public Hearing Notice.

Postponement requests and withdrawals of applications that occur after advertisement of any public hearing or after any required signs have been posted on the subject property shall be treated the same as a denied application. Application processing shall terminate upon receipt of written notice from the applicant or owner. Re-application shall be subject to a 12-month waiting period unless a waiver is granted in accordance with Section 12A-501.9.B.



**12A-502 PUBLIC HEARING PROCEDURES**

## Purpose and Intent:

A Public Hearing provides the opportunity for an applicant and the public to comment on the application submitted for approval. The provisions of this section establish the procedures for a Public Hearing when required in connection with carrying out the provisions of this Ordinance. The Public Hearing procedures contained in this Section shall be used by the Town Council, Planning Commission, and Board of Zoning Appeals.

## 1. Setting of the Public Hearing.

When a public hearing is required by this Ordinance, a time shall be designated for the required public hearing, and notice of such hearing shall be prepared and made pursuant to the Notice provisions contained within this Ordinance.

## 2. Notice Provisions.

## A. Published Notice.

Except as otherwise provided by State law, in any instance in which a public hearing is required, a notice setting forth the date, time, place and purpose of such hearing, the name of the applicant, and identification of the subject property must be published once in a newspaper of general circulation in the Town, at least fifteen (15) calendar days before the date set for the hearing.

## B. Posted Notice.

Notice of actions affecting specific properties shall be posted on the affected property or adjacent to the affected property fifteen (15) calendar days prior to the first hearing on the request. At least one (1) posted notice shall be visible from each street that abuts the property.

## C. Personal Notice.

Whenever personal notice of a public hearing is required by State law, notice shall be sent by regular mail at least fifteen (15) calendar days before the public hearing to each owner of real property located within 300 feet of the exterior boundary of the property in question, to any neighborhood organizations having an interest in the development application, and if the matter to be considered is an appeal, to all parties to the appeal, including other interested parties. Such notice shall state the date, time, place and purpose of the hearing. Failure to provide this notice will not invalidate any action taken.

D. Parties in Interest.

When the provisions of this ordinance require that notice be sent, the following parties in interest shall also be notified: the applicant, the owner of the property (if other than applicant), and any individual, group or organization that has submitted a written statement of interest to the Town of Kiawah Island. The Town has no responsibility for maintaining the names and addresses of these groups or other "Parties in Interest."

E. Costs of Notice.

All actual costs incurred by the Town in preparing and publishing required notices shall be paid by the applicant prior to publication or mailing of such notice according to a schedule of fees established by the Town Council.

F. Notification Following Decision.

Within ten (10) working days of the date of a final decision on a development application, written notification of such action shall be mailed to the applicant except for actions by the Board of Zoning Appeals related to Variances and Special Exceptions. These final decisions of the Board of Zoning Appeals shall be sent by certified mail to the applicant, stating the action taken and including all conditions imposed and times established for satisfaction of such conditions, if any. When the Planning Director denies the application, a written statement setting forth the reasons for the denial shall be included. A record of such notification shall be filed with the Planning Director.

3. Examination of and Copying of Documents.

At any time upon reasonable request, any person may examine the pending development application and materials submitted in support of or in opposition to the development application. Copies of such materials shall be made available at a cost specified in a schedule of fees and charges adopted by Resolution of the Town Council.

4. Conduct of Hearing.

- A. Any person or persons may appear at a public hearing and submit evidence, either individually or as a representative of an organization. Each person who appears at a public hearing shall state his or her name, address, and if appearing on behalf of an organization, state the name and mailing address of the organization for the record.
- B. A landowner whose land is the subject of a proposed zoning amendment will be allowed to present oral or written comments to the Planning

Commission.

- C. The body conducting the hearing shall exclude testimony or evidence that it finds to be irrelevant, immaterial or unduly repetitious. Any person appearing as a witness may ask relevant questions of other persons appearing as witnesses, but shall do so only through the chairperson of the body conducting the hearing at the chairperson's discretion. The order of proceedings shall be as follows:
- (1) The Planning Director or appropriate designee(s) shall present a description of the proposed development application and a written or oral recommendation, if required. The recommendation shall address each factor required to be considered prior to approval of the development application. The written recommendation shall be made available to the applicant at least three (3) working days prior to the hearing;
  - (2) The applicant shall present any information it deems appropriate;
  - (3) Public testimony shall be heard first in favor of the proposal, then in opposition to it;
  - (4) The Planning Director may respond to any statement made by the applicant or to any public comment; and
  - (5) The applicant may respond to any testimony or evidence presented by the staff or public.

5. Record of Proceedings.

- A. The body conducting the hearing shall keep a record of the proceedings by any appropriate means and such record shall be available at the request of any person upon application to the secretary of the body conducting the hearing and payment of a fee set by the Town Council to cover the cost of transcription or duplication.
- B. All records shall be public, open for inspection at reasonable times and upon reasonable notice.

6. Continuance of Proceedings.

The body conducting the hearing may, on its own motion or at the request of any person, for good cause, continue the hearing to a fixed date, time and place within thirty (30) working days. No additional notice shall be required if a hearing is continued. An applicant shall have the right to request and be granted one (1) continuance; however, all subsequent continuances shall be granted at the

discretion of the body conducting the hearing only upon good cause shown. All adjourned public hearings shall recommence only upon giving all notices which would have been required for the initial public hearing.

7. Additional Rules.

Additional rules governing public hearings may be provided for by other provisions of the Town of Kiawah Island Code of Ordinances and may be applied as well, as long as they are not in conflict with these Zoning Regulations. The body conducting the hearing may adopt rules of procedure to limit the number of applications for development approval which may be considered per meeting and the time for each presentation.

**12A-503**      **COMPREHENSIVE PLAN AMENDMENTS**

Purpose and Intent:

To provide for a procedure to amend the Town of Kiawah Island Comprehensive Plan Text and Land Use Diagram.

1. Initiation of Proposals.

The Planning Commission, the Town Council, a property owner or the owner of a business located in the Town may initiate a request for amendment of the Comprehensive Plan text or maps. The application for amendment of the Comprehensive Plan text or maps may be accompanied by an application for a zoning district or text amendment. The Town Council may establish by resolution a schedule indicating when Comprehensive Plan and map amendments will be considered.

2. Pre-Application Conference.

Prior to the submittal of an application for a Comprehensive Plan amendment, the applicant shall participate in a pre-application conference scheduled with the Planning Director.

3. Planning Director Review and Report.

The Planning Director shall review each proposed amendment in light of the Approval Criteria of Section 12A-503.6 and, if deemed necessary, distribute the application to other agencies and reviewers. Based on the results of those reviews, the Planning Director shall provide a report on the proposed amendment to the Planning Commission. The Planning Director shall have at least 30 working days to conduct required reviews.

4. Recommendation by the Planning Commission.

The Planning Commission shall review the proposed amendment and adopt a resolution recommending that the Town Council approve, deny or approve with conditions the proposed amendment, based on the Approval Criteria of Section 12A-503.6. The Planning Commission may hold a public hearing in accordance with the procedures in Section 12A-502. A simple majority vote of Planning Commission members present and voting shall be required to approve the amendment. Following an unfavorable finding on the application, the Planning Commission shall notify the applicant and report the reasons for the finding.

5. Public Hearing Notice.

Published notice of public hearings on Comprehensive Plan amendments shall be provided at least 30 calendar days before the hearing. Published and Parties in interest notice shall be provided in accordance with Section 12A-502.

6. Decision on Amendment by the Town Council.

Following receipt of a copy of the proposed Comprehensive Plan text or Land Use Diagram amendment from the Planning Commission, along with the Planning Commission's report and recommendation, the Town Council shall schedule one or more public hearings in accordance with State Law to decide whether to adopt the amendment. For amendments to the Land Use Diagram, personal and posted notice also shall be given in the manner provided in Section 12A-502.

Any time after the close of the public hearing, Town Council shall act to approve, approve with conditions, or deny the proposed Comprehensive Plan amendment, based on the Approval Criteria of Section 12A-503.6.

A simple majority vote of Town Council members present and voting shall be required to approve the amendment.

7. Approval Criteria.

Comprehensive Plan amendments may be approved by the Town Council only if they determine that the proposed amendment is consistent with the overall purpose and intent of the Comprehensive Plan. Any amendment to the Land Use Diagram and/or other maps shall be consistent with the vision and goals in the text of the Comprehensive Plan.

8. Final Action.

Comprehensive Plan amendments shall be adopted by ordinance.

9. Notice of Decision.

Following final action by the Town Council, the Planning Director shall be responsible for providing the applicant with written notice of the decision.

**12A-504 CODE TEXT AND ZONING DISTRICT MAP AMENDMENTS**

Purpose and Intent:

To provide a procedure to amend textual matter contained within this Ordinance, as well as the Zoning Map which is a part of this Ordinance.

1. Initiation of Proposals.

An application for a change in zoning text may be initiated by the Town Council, Planning Commission or any individual corporation or agency owning or having an ownership interest in property located in the Town. The Town may adopt amendments to this Ordinance, provided that all amendments not proposed by the Commission be submitted to the Commission for their review and recommendation.

A. Request for Zoning District Amendment.

- (1) An application for a change in a zoning district shall identify the size, location, ownership and proposed use of the property. A plat and deed approved in accordance with the Subdivision Regulations and recorded in the Charleston County Register of Mesne Conveyance (RMC) Office, and prescribed fees shall accompany the application.
- (2) Upon submission of a rezoning application, no additional rezoning applications shall be accepted on the same property until the application has been withdrawn or the Town Council has rendered its decision and any applicable time limitations have expired, or the Town Council has specifically authorized such additional applications for the same property.

2. Planning Director Review and Report.

The Planning Director shall review each proposed zoning map amendment in light of the Approval Criteria of Section 12A-504.6, and if deemed necessary, distribute the application to other agencies and reviewers. Based on the results of those reviews, the Planning Director shall provide a report on the proposed amendment to the Planning Commission. The Planning Director shall have at least thirty (30) working days to conduct required reviews.

3. Recommendation by the Planning Commission.

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 12A-502. The Planning Commission's recommendation shall be based on the Approval Criteria of Section 12A-504. The Planning Commission shall submit its recommendation to the Town Council within thirty (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.

4. Public Hearing Notice.

Published, Personal, and Parties in Interest notice of the Town Council's public hearing shall be provided in accordance with the requirements of Section 12A-502. Published notice of a public hearing regarding any proposed amendments to Article 12C, Subdivision Regulations, shall be made at least thirty (30) calendar days prior to a public hearing on any proposed amendments.

5. Decision on Amendment by the Town Council.

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 Section 12A-504.6.

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.

6. Approval Criteria.

Text and zoning map amendments to this 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;
- B. The proposed amendment is consistent with the purposes and intent of these Zoning Regulations;
- C. The purpose of the proposed amendment is to further the general health, safety and welfare of the Town of Kiawah Island.
- D. The proposed amendment corrects an error or inconsistency or meets the challenge of a changed condition.

### **12A-505      PLANNED DEVELOPMENT**

#### Purpose and Intent:

A "Planned Development," as defined by the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, as amended, Code of Laws of South Carolina, Title 6, Chapter 29, (6-29-740) is a type of zoning district (PD) and a type of development plan. PD zoning districts are inextricably linked to Planned Development plans, in that no rights of development apply to a PD zoning designation other than those of the approved Planned Development plan.

Planned development provisions are intended to encourage innovative site planning for residential, commercial and institutional developments within planned development districts. Planned development districts may provide for variations from other ordinances and the regulations of other established zoning districts concerning use, setbacks, lot size, density, bulk, and other requirements to accommodate flexibility in the arrangement of uses for the general purpose of promoting and protecting the public health, safety, and general welfare.

The PD, Planned Development, district regulations of this article are intended to encourage achievement of the goals of the Town of Kiawah Island Comprehensive Plan and to allow flexibility in development that will result in improved design, character, and quality of new mixed use developments and preserve natural and scenic features of open spaces. The following objectives may be attained through the use of the planned development process:

- A maximum choice in the types of environment available to the public by allowing a development that would not be possible under the strict application of the standards of this Ordinance that were designated primarily for development on individual lots;
- A greater freedom in selecting the means to provide access, light, open space and design amenities;
- Quality design and environmentally sensitive development by allowing development



to take advantage of special site characteristics, locations and land use arrangements;

- A development pattern in harmony with the land use density, transportation facilities and community facilities objectives of the Comprehensive Plan;
- The permanent preservation of common open space, recreation areas and facilities;
- An efficient use of the land resulting in more economical networks of utilities, streets, public grounds and buildings, and other facilities;
- A creative approach to the use of land and related physical facilities that results in better development and design and the construction of amenities; and
- A development pattern that incorporates adequate public safety and transportation-related measures in its design and compliments the developed properties in the vicinity and the natural features of the site.

1. Applicability.

The Planned Development Zoning District shall apply to existing areas shown on the zoning map as Planned Development and may also be incorporated into any Zoning District subject to criteria contained herein and a minimum lot size of four (4) acres.

2. Development Standards.

Development standards pertaining to density, lot size, location, and arrangement of buildings and structures, lot dimensions, and landscaping are waived in the PD Districts. The development standards listed below, those in the approved Planned Development Stipulations and any in the approved Planned Development Sketch Plan(s) shall apply.

A. Dimensional Standards.

Each lot located on the perimeter of the planned development shall maintain the rear yard setback requirements and any buffer requirements of the adjacent zoning district.

B. Architectural Standards.

Architectural Design shall comply with all other requirements of this Ordinance, or other Ordinances of the Town of Kiawah Island.

C. Lots to Abut Upon Common Open Space.

Residential properties shall maximize exposure to common open space or

similar areas.

D. Access.

- (1) Areas between structures shall be covered by easements where necessary for access and to provide for maintenance and utility service.
- (2) Primary vehicular access to commercial development shall be through limited access roads.

E. Commercial Areas.

- (1) Commercial areas and adjacent residential areas shall be directly connected through paved sidewalks, trails, or other pedestrian infrastructure.
- (2) Commercial areas shall be planned as groups having common parking areas and common ingress and egress points.

F. Signs.

Signs shall comply with the ARB standards.

G. Parking.

Parking shall be provided in accordance with the standards of this Ordinance. Modifications to the parking standards may be proposed in a planned development request where the Town Council determines that the amount of parking requested and its location is sufficient for the uses proposed.

H. Resource Areas.

Planned developments shall protect any resources determined significant by the Town Council including, but not limited to: wetlands, mature trees, scenic views, water access and shoreline buffers, and habitat of species designated as of federal, state and local concern.

3. Common Open Space.

A proposed development that is applying for a higher density than the base zoning district allows shall designate a minimum amount of the usable land area as common open space. This common open space shall be located to preserve any significant resources. Where common open space is designated, the following standards apply:

- A. The common open space area shall be detailed on each Sketch Plan and recorded with the final plat or separate instrument;
- B. The proposed common open space shall be usable and appropriate to the size of the development and to the new residents of the planned development. The purpose of common open space is to permit areas, which could otherwise be developed into buildable lots or otherwise sold individually, to provide a significant amenity to the residents who will interact with the open space on a daily basis. It is not the purpose of common open space to permit open space for land that is otherwise unusable on a daily basis by residents. Common open space may include unimproved land, landscaped areas, improved recreation areas, recreational buildings, and structures totally accessory to recreational uses, as well as freshwater wetland areas and water surfaces, all located within the development. Natural landscapes, such as wetlands, may also be considered as open space if preserved intact and if they include a recreation component (i.e., trails, etc.). "Usable" means that the open space includes uses or facilities that are adaptable to recreational or leisure use and are accessible to the residents of the proposed development or the general public, such as seating areas, picnic shelter, community garden, pedestrian and bicycle trail access to a designated greenway, public square, swimming pools, playing fields, or a new playground. The use or facility must be approved by Town Council in accordance with the approval and conveyance procedures below.
- C. Land designated as common open space shall not be occupied by streets, drives, parking areas, or structures, other than recreational structures.
- D. All property owners in the planned development shall have access to the open space by means of a public or private street or walkway in an easement a minimum of 20 feet in width.
- E. Common open space shall be provided within each phase of the planned development in sufficient amounts to serve the expected population of that phase.
- F. The applicant must have proof of commitment from the entity that will be responsible for the common open space prior to the Planning Commission Meeting for which the case is scheduled. The common open space shall be conveyed prior to recording the final plat, in accordance with one of the methods listed below.
- (1) By dedication to the Town or its designee as publicly-owned open space. Parks, open space, and recreation facilities proposed for dedication to the Town must be acceptable to the Town Council with regard to the size, shape, location, improvement,

environmental condition (i.e., the applicant may be required to provide an environmental assessment), and budgetary and maintenance terms.

- (2) By leasing or conveying title (including beneficial ownership) to a corporation, homeowner's association or other legal entity. The terms of such lease or other instrument of conveyance must restrict the use of the area to open space/recreational uses.

4. Planned Development Procedure.

This procedure involves a pre-application conference and approval of a PD development plan and PD zoning map amendment.

A. Pre-application Conference.

Before submitting a PD Development Plan for a Planned Development, the applicant shall confer with the Planning Director and any other officials designated by the Planning Director. The purpose of this pre-application conference is to discuss the proposal and the applicable development review and approval procedures.

B. Planned development plan.

(1) Application.

After the required pre-application conference and community workshop, a complete application for PD Development Plan approval must be submitted to the Planning Director on a form established by the Planning Director including an approved and recorded plat showing the current property lines of the property/properties to be included in the planned development, a current recorded deed and applicable fees. The PD Development Plan application shall include the requested Planned Development Stipulations and Sketch Plan. The Sketch Plan shall be drawn to scale.

(2) Planned Development Stipulations.

The following shall be included in the requested Planned Development Stipulations:

- (a) The name of the planned development, not duplicating the name of any other planned development or subdivision, the final plat of which has been recorded in Charleston County, South Carolina;
- (b) A statement of objectives of the proposed development;

- (c) The total acreage of the planned development, broken down into total acreage, total highland acreage, total freshwater wetland acreage, and total Critical Line wetland, or marsh, acreage;
- (d) A table of proposed land uses including:
  - (i) A table of proposed maximum and average residential densities for each residential use;
  - (ii) The maximum total acreage of each residential use;
  - (iii) The maximum allowable number of each type of residential unit requested;
  - (iv) The maximum proposed floor area ratios (% of lot in relation to building floor area), and the maximum building/lot coverage for each non-residential use;
  - (v) All dimensional and lot standards requested, including waterfront development standards where applicable, for each land use type designated.
- (e) An analysis of the impact of the proposed development on existing public facilities and services (e.g. roads and streets, water, sewer, etc.) Any proposed future improvements to these facilities and services to be made as part of the planned development shall also be included;
- (f) A traffic study for planned developments that (1) contain 50 or more units or (2) are comprised of 5 or more acres;
- (g) A development schedule with a generalized phasing schedule, if appropriate. The phasing schedule shall include the number of dwelling units, total acreage of each residential use, total gross floor area of each non-residential use, and percentage of common open space to be included in each phase;
- (h) A statement indicating how any common open space/recreation areas will be owned or managed;
- (i) A statement indicating how all roads will be owned and maintained;
- (j) A statement of inclusion and compliance with processes included in the Town of Kiawah Island Land Use Planning/Zoning Ordinance that are not mentioned in the planned development stipulations;
- (k) A statement of agreement to proceed with proposed development in accordance with the provisions of these zoning regulations, applicable provisions of the Town of Kiawah Island Comprehensive Plan, and with such conditions as may be attached to any rezoning to the applicable PD district;
- (l) A statement that the provisions of 12A-509 Variances, of this Ordinance shall not apply to the planned development

- and that all major changes to the planned development must be approved by Town Council;
- (m) Letters of coordination from all agencies from which the applicant must either (1) obtain permits or (2) obtain services and/or facilities;
  - (n) Any other information that the Planning Director determines is necessary to determine whether the application complies with the standards established in this Section.

(3) Sketch Plan.

Multiple Sketch Plans may be submitted and the Sketch Plans shall be drawn to scale. The following shall be included on the requested Sketch Plan:

- (a) The general location and amount of land proposed for each land use including single-family residential, multi-family residential, institutional, office, commercial, industrial, common open space/recreation, street use, etc.;
- (b) Conceptual lot lines;
- (c) Pedestrian and motor traffic circulation;
- (d) Location, acreage, and type (freshwater or Critical Line/marsh) of all wetlands as they exist prior to development. The location and acreage of all freshwater wetlands to be developed upon shall be indicated;
- (e) Architectural elevations for each type of residential and nonresidential unit;
- (f) The general location, size, and capacity of all existing and proposed water and sewer lines;
- (g) Areas to be included in each phase of development, including the location of all common open space areas;
- (h) The location of all construction entrances;
- (i) A Landscaping Sketch Plan including the location and composition of all screening and buffering materials;
- (j) A Utility Sketch Plan with the location of any on-site natural areas, buffers, trees and sidewalks that may be impacted by utility facilities including existing and proposed location of any easements or rights-of-way;
- (k) Any other information that the Planning Director determines is necessary to determine whether the application complies with the standards established in this section.

(4) Planning Director Review and Report.

Once an application is deemed complete and to contain all information required herein by the Planning Director, the application will be scheduled for a Planning Commission meeting and the applicant and other interested parties will be notified in accordance with this ordinance. The Planning Director shall prepare a staff report that reviews the PD Development Plan application in light of the underlying zoning district standards contained in Chapter 2 of this Ordinance, and all other applicable development standards and planning policies.

(5) Planning Commission Review and Recommendation.

The Planning Commission shall review the proposed PD Development Plan and adopt a resolution recommending that the Town Council approve, approve with conditions or deny the proposed development plan. The Planning Commission's recommendation shall be based on the Approval Criteria below. The Planning Commission shall submit its recommendation to the Town Council within 30 calendar days of the Planning Commission meeting at which the PD Development Plan was introduced.

At any time prior to action by the Planning Commission, the applicant may request that the Planning Commission enter mediation. When mediation is requested, the Planning Commission shall assign one of its members as a representative in mediation proceedings and the Planning Director shall represent the Planning Staff. A majority vote of the entire Planning Commission membership in a public meeting shall be required to accept any mediated settlement. An accepted mediated settlement cannot waive the standards of this Ordinance. Prior to beginning talks, applicable time limits for review and action on complete applications must be extended by mutual agreement of the applicant and Planning Commission.

(6) Town Council Hearing and Decision.

After receiving the recommendation of the Planning Commission, the Town Council shall hold at least 1 public hearing, and any time after the close of the public hearing, take action to approve, approve with conditions or deny the proposed PD Development Plan based on the Approval Criteria below. If the Town Council takes action to approve the PD Development Plan, it shall establish required time-frames for development of the entire Planned Development and its individual phases, if any. Within ten (10) working days of approval by Town Council of a planned

development, the applicant shall submit three copies of the approved Planned Development Guidelines and Sketch Plan to the Department. This plan shall contain all changes and conditions approved by Town Council.

(7) Approval Criteria.

Applications for PD Development Plan approval may be approved only if the Town Council determines that the following criteria are met:

- (a) The PD Development Plan complies with the standards contained in this Ordinance;
- (b) The development is consistent with the Comprehensive Plan and other adopted policy documents; and
- (c) The Town and other applicable agencies will be able to provide necessary public services, facilities, and programs to serve the development proposed, at the time the property is developed.

(8) Identification of Zoning Maps

Approved Planned Developments shall be indicated on the official zoning map.

(9) Compliance With Other Regulations.

Unless expressly stated in this section or approved at the time of a Planned Development approval, all applicable standards of this Ordinance and other law shall apply to development within a Planned Development. Planned Developments may provide for variations from other ordinances and the regulations of other established zoning districts concerning use, setbacks, lot area, density, bulk and other requirements to accommodate flexibility in the arrangement of uses for the general purpose of promoting and protecting the public health, safety, and general welfare.

(10) Subdivision of Land Located within Approved Planned Developments.

All subdivision of land located within approved planned developments shall be consistent with the stipulations approved by Town Council, and shall satisfy the requirements of this Ordinance.



**12A-506 DEVELOPMENT AGREEMENTS****Purpose and Intent:**

The Development Agreement process encourages a developer to make a major capital facilities investment commitment based on comprehensive long term planning. Further, it ensures the adequate provision of public facilities for development, encourages the efficient use of resources, and potentially reduces the economic cost of development.

**1. Minimum Requirements.**

- A. The Town of Kiawah Island may enter into a Development Agreement with a developer pursuant to the South Carolina Local Government Development Agreement Act of 1993, as amended, provided that the property contains a minimum of twenty-five acres or more of highland and the development will have a maximum build-out time as shown in the following table:

<u>Acres of Highland</u>	<u>Maximum Years to Complete Development</u>
25 - 250	5
251 - 1000	10
1001 - 2000	20
2001+	Negotiable

- B. Each development agreement must be approved by the Town of Kiawah Island through the adoption of an ordinance after complying with all of the provisions contained in the South Carolina Local Government Development Agreement Act of 1993, as amended.

**2. Contents of Agreement.**

Development Agreements must include the following:

- A. Description and owners.

A legal description of the property and names of legal and equitable owners.

- B. Duration.

Development must be projected to take place over a period authorized by Section 12A-506.1. The termination date may be extended by agreement.

- C. Uses.

Land uses, including population and building densities and heights.

D. Public facilities.

Description of public facilities to serve development; who they will serve and when.

E. Dedication.

Reservation or dedication of land for public purposes and environmental protection provisions.

F. Permits.

A description of all local development permits needed or approved. A statement shall be included that failure to list a permit does not relieve the developer from complying with the law.

G. Comprehensive Plan.

A statement that the development is consistent with the Town of Kiawah Island Comprehensive Plan and Land Use Planning/Zoning Ordinance.

H. Conditions.

Conditions, terms, restrictions or requirements necessary for public health, safety or welfare.

I. Historic preservation.

Description of provisions for preservation and restoration of historic structures.

J. Time.

Specific time for completion of development or any other phase.

K. Responsible government.

If more than one local government is a party to the agreement, the local government responsible for overall administration of the agreement shall be specified.

L. Other matters.

Include any other matter not inconsistent with the law. A provision shall be included for application of new laws.

3. Development agreements may be amended or terminated by consent of the parties involved.
4. The Planning Commission shall review development agreements for consistency with the Comprehensive Plan and this Ordinance and shall make a recommendation to Town Council.
5. Public Hearings Required.

The Town Council shall hold at least two (2) public hearings. The Planning Commission may be authorized to conduct the hearings. The time and place of the second hearing shall be announced at the first hearing.

6. Public Hearing Notice.

Published, Personal, and Parties in Interest notice of the public hearings shall be provided in accordance with the requirements of Section 12A-502. The published notice shall state the location of the property, proposed uses, and where copies of the agreement may be obtained.

7. Decision on Development Agreement by Town Council.

A simple majority vote of Town Council members present and voting shall be required to approve the development agreement. Each development agreement shall be approved by adoption of an ordinance.

8. Recording Development Agreements.

Development agreements shall be recorded in the land records of Charleston County within fourteen (14) days after the execution of the agreement.

9. Required Review of Development Agreement.

Each development agreement shall be reviewed one time at least every twelve (12) months by the Planning Director.

10. Compliance with State and Federal Laws.

Development agreement provisions shall be modified or suspended to comply with state and/or federal laws enacted after the agreement is executed.

**12A-507**      **SPECIAL EXCEPTIONS**

## Purpose and Intent:

Special exceptions are uses which are generally compatible with the permitted land uses in a zoning district, but which require specific review of the location of the site and the design, configuration and operation of the proposed use, as well as the possibility of imposition of conditions in order to ensure the compatibility of the use at a particular location within the zoning district. They are acted upon by the Board of Zoning Appeals.

1. An applicant initiates the special exception process when they submit an application to the Planning Director accompanied by a site plan drawn to engineer's scale which contains the following information:
  - A. The shape and dimensions of the existing lot of record;
  - B. The size and location of all existing structures;
  - C. The lines within which any proposed structures shall be erected, altered, or moved, and the location of any officially approved building setback lines;
  - D. The existing and proposed use of each structure and part thereof;
  - E. The uses and zoning of adjoining properties;
  - F. The number of dwelling units in each existing building and the number of dwelling units that each proposed building is intended to accommodate;
  - G. The size and location of all proposed driveways, off-street loading areas and off-street parking areas containing more than six parking spaces;
  - H. The heights of all proposed structures and parts thereof;
  - I. Finished first floor elevation above mean sea level requirement and the flood hazard zone designation if in a special flood hazard "A" or "V" zone;
  - J. If a Zoning District or Text Amendment is also required or requested, or if the proposed special exception Use requires a division of land, an application for a Zoning Amendment, Subdivision or Land Development shall be submitted in conjunction with the application for a special exception;
  - K. A copy of the approved and recorded plat;

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- L. Applicant's letter of intent explaining the proposed use and how it meets the Approval Criteria of Section 12A-507.6; and
  - M. Such other reasonable and pertinent information with regard to the zoning lot or neighboring lots as the Planning Director may find necessary to carry out the purposes and intent of this Ordinance.
2. Only those uses that are enumerated as special exceptions in a particular zoning district shall be authorized by the Board of Zoning Appeals (refer to Zoning Use Table – Table 3A). No special use shall be established until a special exception is granted in accordance with the provisions of this section.
3. Status of Special Exceptions.
- A. The designation of a use in a zoning district as a special exception does not constitute an assurance that such use will be approved.
  - B. Approval of a special exception authorizes only the particular use for which the special exception is granted.
  - C. No use permitted by special exception shall be enlarged, extended, increased in intensity or relocated unless an application is made for a new special exception.
  - D. Development of a special exception use shall not be undertaken until the applicant has secured all permits and approvals required by these Zoning Regulations, by the Kiawah Island Code, and by regional, state and federal agencies.
4. Application for Special Exception.
- A. An application for a special exception may be submitted by the property owner or by the property owner's designated representative. The current property owner shall sign the special exception application.
  - B. The application shall be submitted to the Planning Director. The application shall be accompanied by a site plan prepared in accordance with requirements of Section 12A-508, Site Plan Review. Applicants shall attend at least one Site Plan Review meeting prior to submitting the application for special exception.
  - C. If the proposed special exception requires a division of land, an application for a subdivision or other land division shall be submitted in conjunction with the application for the special exception. Approval of the special exception permit shall not become effective until final approval of the subdivision application; provided, that if the land is to be divided in phases,

the approval of the special exception shall take effect upon final approval of the phase of the subdivision containing the property on which the special exception use is to be located.

5. Procedures for Granting Special Exceptions.

The Planning Director shall review each proposed special exception in light of the Approval Criteria of Section 12A-507.6, and if deemed necessary, distribute the application to other agencies and reviewers. Based on the results of those reviews, the Planning Director shall provide a report on the proposed special exception to the Board of Zoning Appeals. The Board of Zoning Appeals, at a scheduled public hearing of the Board, shall determine whether a special exception will be granted. The Board of Zoning Appeals shall conduct the public hearing pursuant to Section 12A-502. Published, personal, Parties in Interest and posted notice for the public hearing shall comply with Section 12A-502.

6. Approval Criteria.

When considering applications for a special exception, the Board of Zoning Appeals shall evaluate the impact of the special use on, and its compatibility with, surrounding properties and neighborhoods to ensure the appropriateness of the use at the particular location. The Board of Zoning Appeals shall specifically consider the extent to which:

- (1) The proposed use at the specified location is consistent with the vision and goals embodied in the Comprehensive Plan;
- (2) The proposed use is consistent with the general purpose and intent of these Zoning Regulations, including any use conditions or zoning district standards;
- (3) The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods, and includes improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts, such as traffic, noise, odors, visual nuisances, or other similar adverse effects to adjacent development and neighborhoods. These improvements or modifications may include, but shall not be limited to the placement or orientation of buildings and entryways, parking areas, bufferyards, and the addition of landscaping, walls, or both, to ameliorate such impacts;
- (4) The proposed use is compatible with the character of the underlying zoning district;
- (5) Where applicable, the proposed use will be developed in a way that will preserve and incorporate any important natural features;

- (6) The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood;
- (7) The proposed use incorporates roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development generated traffic on neighborhood streets;
- (8) The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed special use on adjacent properties;
- (9) The proposed use complies with all other requirements of these Zoning Regulations applicable to the proposed special exception use; and
- (10) The proposed use is not materially detrimental to the public health, safety, convenience and welfare.

7. Decision on Special Exception.

The Board of Zoning Appeals shall render its decision on the special exception application based on the Approval Criteria of Section 12A-507.6 and in accordance with the public hearing procedures contained in Section 12A-502, and may impose conditions which it determines are necessary to protect the public health, safety and welfare. If the appropriateness of the special exception cannot be assured at the location where proposed, the application for special exception permit shall be denied as being incompatible with existing uses or uses permitted by right in the zoning district.

8. Appeals.

Appeal shall be to the Circuit Court in and for Charleston County, pursuant to Section 6-29-820 of the South Carolina Code.

9. Lapse of Approval.

An approved special exception shall lapse and be of no further effect twelve (12) months after the date that the special exception was approved by the Board of Zoning Appeals unless a complete application of a Zoning Permit is submitted in accordance with Section 12A-510, or if no Zoning Permit is required, unless construction or development has commenced and is being diligently pursued.

One one-year extension of a special exception approval may be allowed if construction or development has commenced and is being diligently pursued.

Applications for extensions of special exception approvals shall be submitted to the Planning Director on forms available in the Planning Department at least fifteen (15) days prior to the expiration of the special exception approval.

**12A-508**      **SITE PLAN REVIEW**

Purpose and Intent:

The purpose of site plan review is to ensure that all applicable requirements of this Ordinance are complied with prior to the issuance of a Zoning and Building Permit.

1.    Applicability.

A.    General.

The site plan review process, administered by the Department of Planning, shall be required for all new construction, exterior remodeling involving a change in the building footprint, parking areas or other impervious surfaces, change of use that results in a more intense use, and additions to any structure used for any purpose (except detached single family residences). No zoning or building permit shall be issued for a development subject to site plan review until the site plan has been approved in accordance with the provisions contained within this Ordinance.

B.    Single Family Detached Residential.

The site plan review process, requiring Site Plan Review application, will not apply to detached single family residences. However, a review by Planning staff to determine compliance with all applicable zoning regulations is required.

2.    Application.

The property owner or designated representative may initiate site plan review by filing an application with the Planning Director. The contents of the application shall be included on a form developed by the Town. If more than one use in a project or more than one use located on a single tract of land is subject to site plan review, the necessary applications may be submitted in phases, provided however that the overall concept is first reviewed with the Planning Director and the Planning Commission. A letter of intent shall be submitted by the applicant describing the proposed use.



3. Procedures for Issuance of Site Plan Approval.
  - A. Site plans for permitted uses shall be reviewed by the Planning Director in conjunction with the zoning permit process. The Planning Director's review and action shall be based on the conformity of the site plan with district regulations, approved plats and the Comprehensive Plan.
  - B. Site plans for Special Exceptions shall be reviewed by the Planning Director prior to the application being presented to the Board of Zoning Appeals pursuant to Section 12A-505.
  - C. Site plans for Planned Developments shall be reviewed by the Planning Director, Planning Commission and Town Council pursuant to Section 12A-504 when the Planned Development does not contain a detailed site plan.
  - D. A site plan may be approved, approved with conditions, or denied.

4. Submittal Requirements.

A site plan must be drawn to engineers scale and contain the following information:

- A. The shape and dimensions of the zoning lot;
- B. The size and location of all existing structures;
- C. The lines within which any proposed structures shall be erected, altered, or moved; and the locations of any officially approved building setback lines;
- D. The heights of all proposed structures and parts thereof;
- E. The existing and proposed use of each structure and part thereof;
- F. The uses and zoning of adjoining properties;
- G. The number of dwelling units in each existing building and the number of dwelling units that each proposed building is intended to accommodate;
- H. The size and location of all proposed driveways, off-street loading areas and off-street parking areas containing more than six parking spaces;
- I. Finished first floor elevation above mean sea level requirement and the
- J. flood hazard zone designation if in a special flood hazard "A" or "V" zone;
- K. Review comments from the St. John's Fire District; and

- L. Such other reasonable and pertinent information with regard to the zoning lot or neighboring lots as the Planning Director may find necessary to carry out the purposes and intent of these Zoning Regulations.

## 12A-509      VARIANCES

### Purpose and Intent:

The purpose of a variance is to afford an applicant relief from the requirements of the strict letter of the Zoning Regulations when unnecessary hardship or practical difficulty exists.

1. Variances Authorized by Board of Zoning Appeals.

The Board of Zoning Appeals is authorized to grant variances only in harmony with the general purpose and intent of these Zoning Regulations and in accordance with the standards herein.

2. Application for Variance.

An application for a variance, together with an application for a zoning permit, shall be filed in duplicate with the Planning Director, who shall forward a copy of each to notification of the Board of Zoning Appeals hearing shall comply with Section 12A-502. The structure on the subject property shall be physically staked out before the application is submitted to the Planning Director. The application shall contain the following information, as well as such additional information as may be prescribed by rule of the Board of Zoning Appeals:

- A. A letter of intent submitted by the applicant describing the specific requirements of these Zoning Regulations which prevent the proposed use or construction;
- B. The characteristics of the subject property which prevent compliance with the requirements of these Zoning Regulations;
- C. The minimum reduction in the requirements of these Zoning Regulations which would be necessary to permit the proposed use or construction;
- D. The particular hardship which would result if these requirements were applied to the subject property; and
- E. A copy of the approved recorded plat together with a site plan drawn to engineers scale showing the property dimensions, dimensions and locations of existing and proposed structures and improvements, parking areas, Grand trees, wetlands, holding basins and buffers when applicable.

F. All proposed variances, except single-family residential development, shall satisfy the Site Plan Review process. Applicants shall attend at least one Site Plan Review meeting prior to submitting an application for a variance.

3. Hearing on Variance.

A hearing on the application for a variance shall be held by the Board of Zoning Appeals pursuant to notice as specified in Section 12A-502.

4. Approval Criteria

A. The Board of Zoning Appeals may grant a variance only if exceptional circumstances exist, and where practical difficulty or unnecessary hardship is so substantial, serious, and compelling that relaxation of the general restrictions ought to be granted. No variance shall be granted unless the applicant shall show and the Board of Zoning Appeals shall find that:

- (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property;
- (2) These conditions do not generally apply to other property in the vicinity;
- (3) Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonable restrict the utilization of the property;
- (4) The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the zoning district will not be harmed by the granting of the variance;
- (5) The Board of Zoning Appeals shall not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land, or to change the zoning district boundaries shown on the official zoning map;
- (6) The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance;
- (7) The need for the variance shall not be the result of the applicant's

own actions;

- (8) Granting the variance will not be contrary to the public or neighborhood interest nor will not adversely affect other property in the vicinity, nor interfere with the harmony, spirit, intent, and purpose of these regulations; and
  - (9) Granting of the variance does not substantially conflict with the Comprehensive Plan or the purposes of this Ordinance.
5. Stipulations, Conditions, or Safeguards.

In granting a variance, the Board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to protect established property values in the surrounding area, or to promote the public health, safety, or general welfare.

6. Lapse of Approval.

An approved Zoning Variance shall lapse and be of not further effect 12 months after the date that the Zoning Variance was approved by the Board of Zoning Appeals unless a completed application of a Zoning Permit is submitted in accordance with Section 12A-501.4, or if no Zoning Permit is required, unless construction or development has commenced and is being diligently pursued.

One one-year extension of a Zoning Variance approval may be allowed if construction or development has commenced and is being diligently pursued. Applications for extensions of Zoning Variance approvals shall be submitted to the Planning Director on forms available in the Planning Department at least fifteen (15) days prior to the expiration of the Zoning Variance approval.

## **12A-510 ADMINISTRATIVE PERMITS**

Purpose and Intent:

Administrative Permits are used when action by the Town Council or Planning Commission is not needed. These permits may be issued by the Planning Director and include Zoning Permits, Building Permits, Construction Permits, Certificates of Occupancy, Conditional Use Permits, and Emergency Permits.

Administrative Permits are required prior to commencing any development activity.

**12A-511      ZONING PERMITS**

Purpose and Intent:

Zoning Permits: Confirm that the intended use fully complies with the provisions of the Zoning District.

1. A zoning permit shall be required before any of the following are permitted:
  - A. The issuance of a building permit under the Town of Kiawah Island Building Code;
  - B. New construction;
  - C. Additions to existing structures;
  - D. Relocation of any house;
  - E. Excavation, clearing, and/or grubbing preparatory to constructing a structure for which a building permit is required;
  - F. Improvement any lot by grading, filling, or surfacing or by constructing driveways or by constructing or enlarging parking areas containing 6 or more parking spaces;
  - G. Change in the use classification of any part of a structure or lot including any increase in the number of families or dwelling units occupying a building or lot;
  - H. Installation of any sign as specified within this Ordinance;
  - I. Utility Construction;
  - J. Obtainment of a business license; or
  - K. Any earth disturbing activity.

2. Zoning Permit Application Forms.

Requests for approval of Zoning Permit applications shall be made on forms provided by the Town. The Town may promulgate submittal requirements, instructions for completing forms, internal procedures for acceptance and filing of development applications, and provisions for waiver through the establishment of administrative guidelines.

3. Submission and Determination of a Complete Zoning Permit Application.

All Zoning Permit applications shall be submitted to the Planning Director or authorized designee. If all required information is included per Section 12A-501, the application shall be deemed complete and accepted, along with any established fees. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of these Zoning Regulations. Submittal of a complete application initiates the application process.

4. Official Filing Date.

All time limits for processing or acting upon development applications shall commence on the date that a completed application, along with any established fees, are submitted to the Planning Director. Substantial modification of an application by the applicant following the filing of the Zoning Permit application but prior to the expiration of the period within which the Town is required to act shall extend the period for a like time following the Planning Director's determination that the modified Zoning Permit application is complete.

5. Time of Expiration.

- A. Zoning permits shall become invalid if a building permit is required but not issued within twelve (12) months of the date of issuance of the zoning permit or if a building permit is not required.

## **12A-512 BUILDING PERMITS**

Purpose and Intent:

A Building Permit is a Town license which allows construction or installation of any building or structure. It may be issued only after a zoning permit has been approved and issued.

1. Building Permit Application Forms.

A Zoning Permit must be obtained prior to application for a Building Permit.

2. Submission and Determination of a Complete Building Permit Application.

All Building Permit applications shall be submitted to the Planning Director or authorized designee. If all required information is included per Section 12A-501, the application shall be deemed complete and accepted, along with any established fees. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of these Zoning Regulations. Submittal of a complete application initiates the application process.

3. Processing of Application and Report.

Following the determination that a Building Permit application is complete, the Planning Director shall substantively review the application, forward it for review to any appropriate advisory body, and prepare a report to the Planning Commission, Board of Zoning Appeals or Town Council, as may be required, within thirty (30) working days.

4. Official Filing Date.

All time limits for processing or acting upon development applications shall commence on the date that a completed application, along with any established fees, are submitted to the Planning Director. Substantial modification of an application by the applicant following the filing of the Building Permit application but prior to the expiration of the period within which the Town is required to act shall extend the period for a like time following the Planning Director's determination that the modified Building Permit application is complete.

5. Time of Expiration.

A. It is intended that residential and other structures be completed on a reasonably timely basis. This serves to avoid conditions which could cause hazards to persons or to property and/or diminution in value of neighborhood properties. Structures must be completed within the following time frame:

- (1) For houses under three thousand (3,000) heated square feet:  
18 months
- (2) For houses of three thousand (3,000) to five thousand (5,000) heated square feet:  
24 months
- (3) For houses over five thousand (5,000) heated square feet:  
30 months

B. If the applicant fails to satisfy any condition that was imposed as part of the original or revised approval of the Zoning Permit application or that was made pursuant to the terms of any development agreement within the time limits established for satisfaction of such condition or term, or if the applicant fails to present a subsequent Zoning Permit application as required by these Zoning Regulations and other applicable Town ordinances within the time so required.

The applicant shall be in violation of this Ordinance and shall be subject to

finer or penalties as prescribed in this Ordinance in addition to any other remedies that avail under South Carolina state law.

6. Building Permit Extensions.

Any person owning, leasing, occupying or having charge of any premises shall have the opportunity to petition the Kiawah Island Planning Director in writing, and if good cause is shown, the Planning Director shall have the authority to extend a building permit for a period of up to an additional six (6) months. Such petition for an extension shall be filed at least thirty (30) days prior to the expiration of the period noted in this section.

**12A-513**      **CERTIFICATES OF OCCUPANCY**

Purpose and Intent:

A certificate of occupancy is the authorization which allows a residence or other structure to be occupied.

1. Certificate of Occupancy Application Forms.

Certificates of Occupancy are issued by the Town of Kiawah Island Building Services Department.

2. Requirements.

No structure or zoning lot or part thereof for which a Zoning Permit has been issued shall be used or occupied until the Building Inspection services Director has, after final inspection, issued a Certificate of Occupancy indicating that the use or structure complies with all applicable requirements of the Zoning Permit and this Ordinance. This Certificate of Occupancy may be combined with or made a part of the Certificate of Occupancy required under the Building Code. The issuance of a Certificate of Occupancy shall not be construed as waiving any provision of this Ordinance or the applicable Zoning Permit.

3. Utility Connections.

A. Temporary electrical power permits shall require authorization from the Planning Director prior to such services being provided by the utility companies.

B. Electric or gas utility companies or cooperatives shall not provide their permanent service until receipt of an approved Certificate of Occupancy.



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**12A-514      EMERGENCY PERMITS****Purpose and Intent:**

Emergency permits are non-renewable permits intended for uses damaged or destroyed by fire, flood, wind or act of God or where strict compliance with zoning permit requirements will impair the health or safety of the affected individuals or the security of the premises.

1.      Emergency Permit Application Forms.

Emergency permits are issued by the Planning Director.

2.      Requirements.

- A.      If the use for which an Emergency Permit is applied is a legal non-conforming use, the Emergency permit may be issued for the time period specified in Section 12A-512.5;
- B.      Zoning Permit requirements may be temporarily waived if major disaster affects health, safety, welfare, and normal administrative process will delay necessary remedial action.

## CHAPTER VI – NONCONFORMITIES AND VESTED RIGHTS

### 12A-601      NONCONFORMITIES

Purpose and Intent:

To define types of nonconforming uses and their ultimate disposition and handling.

1. Nonconformities include lots, structures, land, and other uses.
2. Nonconformities that were otherwise lawful on the effective date of a zoning regulation may be continued. However, these uses are hereby declared to be incompatible with permitted uses in the district involved.
3. The burden shall be on the landowner or developer to establish an entitlement to continue a nonconformity or to complete a nonconforming project.

### 12A-602      NONCONFORMING LOTS

Purpose and Intent:

To define undeveloped nonconforming lots and requirements and restrictions for lot development.

1. This section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has no substantial structures upon it. For purposes of this section, a substantial structure shall include any structure in excess of 600 square feet of floor area which was constructed as a principal use permitted in the zoning district at the time of construction. A change in use of a developed nonconforming lot may be accomplished only in accordance with Section 12A-604.
2. When a nonconforming lot can be used in conformity with all of the regulations applicable to the intended use, except that the lot is smaller than the required minimum lot area applicable to that zoning district, the lot may be used as proposed just as if it were conforming.
3. Notwithstanding any other provision of these Zoning Regulations, the owner of a lot of record located in any single family residentially zoned district may construct one single family detached dwelling unit on such lot, provided that the development conforms to the appropriate dimensional standards of these Zoning Regulations.

**12A-603 NONCONFORMING STRUCTURES**

## Purpose and Intent:

Nonconforming structures are structures or portions thereof that were lawfully erected or altered, but which do not comply with the regulations applicable to new structures in the zoning district in which they are located. This section defines the requirements for the extension, enlargement, repair, maintenance, restoration, and replacement of nonconforming structures.

## 1. Extension or Enlargement.

Except as specifically provided in this section, no person may engage in any activity that causes an increase in the extent of an existing nonconformity. Physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:

- A. An increase in the total amount of space or building area devoted to a nonconforming use.
- B. Greater nonconformity of dimensional restrictions such as setback requirements, height limitations, density requirements, or any other requirements prescribed in these Zoning Regulations.
- C. A nonconforming structure may be extended or enlarged to an extent that the costs of the extension or enlargement will not exceed fifty percent (50%) of the appraised value of the structure at the time the extension or enlargement occurs.

## 2. Repair, Maintenance, Restoration, and Replacement.

- A. If a nonconforming structure is damaged by fire, explosion, act of God, or the public enemy to an extent that the costs of repair or restoration will exceed fifty (50%) percent of its appraised value of the structure at the time the damage occurs, the damaged portions of the structure may be repaired or restored to their exact dimensional states (size, shape, building footprint, height, etc.) prior to the destruction, provided that it meets all applicable building code requirements.
- B. If a nonconforming structure is destroyed by fire, explosion, act of God, or the public enemy, the structure may be replaced with a structure identical in size, shape (building footprint), and height, provided it meets all applicable building code requirements.
- C. Repairs may be made to any nonconforming structure so long as the extent of any original nonconformity is not increased. Any repairs, renovation,

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restoration, or replacement of a structure pursuant to this section shall require a permit pursuant to Town regulations.

3. For purposes of this chapter:
  - A. The "cost" of renovation or repair or restoration shall mean the fair market value of the materials and services necessary to accomplish such renovation, repair or restoration;
  - B. The "cost" of renovation or repair or restoration shall mean the total cost of all such intended work, and no person may seek to avoid the intent of this chapter by doing such work incrementally or without compensation; and
  - C. The "appraised value" of a structure or improvement shall mean the fair market value of the structure or improvement.

#### **12A-604 NONCONFORMING USES**

##### Purpose and Intent:

Nonconforming uses are uses that were lawfully established and maintained, but do not comply with the use regulations applicable to new uses in the zoning district in which it is located. This section defines the requirements for the extension and/or enlargement, the conditions whereby a change in an existing nonconforming use may be permitted, and the loss of legal nonconforming use status.

1. Extension or Enlargement.
  - A. A nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this ordinance, was manifestly designed or arranged to accommodate such use. A nonconforming use may not be extended to additional buildings or to land outside the original building.
  - B. A nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming.
  - C. Where a nonconforming use exists, new equipment and processes may be utilized in order to modernize the operation but not to change the use.
2. Change in Use of Property Where a Nonconformity Exists.
  - A. A change in the use of property where a nonconformity exists may not be made except in accordance with subsections B. through C. of this section.
  - B. If the intended change in use is to a principal use that is permissible in the

zoning district in which the property is located, and all other requirements of this title applicable to that use are satisfied, permission to make the change must be obtained in the same manner as permission to make the initial use of a vacant lot. Once conformity with this title is achieved, the property may not revert to its nonconforming status.

- C. The change in use shall not be permitted if compliance cannot be achieved without adding additional land to the lot where the nonconformity is found or by moving a substantial structure that is on a permanent foundation.
3. Abandonment and Discontinuance of a Nonconforming Use.
- A. When a nonconforming use is discontinued for a consecutive period of 180 days, the property involved shall thereafter be used only for conforming purposes.
  - B. For purposes of determining whether a right to continue a nonconformity is lost pursuant to this section, all buildings, activities, and operations maintained on a lot are generally to be considered as a whole. However, if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter.

## **12A-605 SECTION RESERVED FOR FUTURE USE**

## **12A-606 VESTED RIGHTS**

### Purpose and Intent:

Providing for the establishment of Vested Rights to develop property pursuant to South Carolina Code of Laws, Title 6, Chapter 29, Article 11.

- 1. Scope and title.
 

All applicable ordinances, municipal code sections, and regulations relating to zoning, planning and land development within the municipality are subject to the Vested Rights established herein.
- 2. Definitions.
  - A. Except as hereinafter set forth, the words, terms and phrases when used in this Ordinance shall have the meaning as set forth in Section 6-29-1520 of the South Carolina Code of Laws, as enacted by Act 287 of 2004.

- B. "Site specific development plan", in addition and as a supplement to the definition set forth in Section 6-29-1520 of the South Carolina Code of Laws, as enacted by Act 287 of 2004, is further defined to mean those documents that comprise a complete application for a zoning permit, certificate of zoning compliance, variance, special exception, planned unit development, sketch plat or sketch plan, or other similar approval that authorizes the landowner to proceed with investment in grading, installation of utilities, streets, and other infrastructure, and to undertake other significant expenditures necessary to prepare for application for a building permit.
3. Establishment and conditions of vested rights.
- A. A vested right to develop property in accord with a site specific development plan is triggered upon the final approval of the site specific development plan by the final official or body of the municipality authorized to approve a site specific development plan and the payment to the municipality of all applicable established fees.
- B. Except as hereinafter set forth, a vested right established by this Ordinance is subject to the conditions and limitations as set out in Sections 6-29-1540 and 6-29-1550 of the Code of Laws of South Carolina, as enacted by Act 287 of 2004.
- C. A vested right for an approved site specific development plan expires two years after the date of final approval by the final official or body authorized to approve a site specific development plan.
- D. No vested rights are established for phased development plans, including approved or conditionally approved phased development plans and including phased development plans applicable to property proposed for annexation. An approved or conditionally approved site specific development plan is required prior to approval with respect to each phase of a phased development plan.
- E. A vested site specific development plan may be amended if the amendment conforms to, or does not cause greater nonconformity with, the then current provisions of the municipal zoning, planning, and land development ordinances, municipal code sections or regulations. Approval or conditional approval of an amendment does not re-set or re-start the expiration period of a vested right.
- F. No sooner than three (3) months, and no later than forty-five (45) days prior to the expiration of the two-year vested right period for an approved site specific development plan, the landowner of property with a vested right in a site specific development plan may apply to the authorized

official or body for an annual extension of the vested right. The authorized official or body must approve an application for an annual extension of the vested right unless an amendment to the land development ordinances or regulations has been adopted that prohibits approval. No more than five (5) annual extensions of the vested right may be approved.

## CHAPTER VII - VIOLATIONS, PENALTIES AND ENFORCEMENT

### 12A-701    VIOLATIONS

Purpose and Intent:

To define actions that constitutes violations of this Ordinance.

All of the following items, but not limited to, constitute violations of this Ordinance:

1. To use or attempt to use land or a building in any way not consistent with the requirements of this Ordinance;
2. To erect or attempt to erect a building or other structure in any way not consistent with the requirements of this Ordinance;
3. To engage or attempt to engage in the development or subdivision of land in any way not consistent with the requirements of this Ordinance;
4. To transfer title to any lots or parts of a development unless the subdivision has received all approvals required under this Ordinance and an approved plan or plat, if required, has been filed in the appropriate Town office;
5. To submit for recording with a Town office any subdivision plat that has not been approved in accordance with the requirements of this Ordinance;
6. To engage in the use of a building or land, the subdivision or development of land or any other activity requiring one (1) or more approvals or permits under this Ordinance without obtaining all such required approvals or permits;
7. To violate the terms of any approval or permit granted under this Ordinance or any condition imposed on such approval or permit;
8. To obscure or obstruct any notice required to be posted or otherwise given under this Ordinance;
9. To violate any lawful order issued by any person or entity under this Ordinance;
10. To continue any violation as defined above, with each day of continued violation to be considered a separate violation for purposes of computing cumulative civil or criminal penalties.



**12A-702 ENFORCEMENT RESPONSIBILITY, COMPLAINTS**

Purpose and Intent:

To define the responsibilities for the enforcement of this Ordinance.

1. Responsibility.

The responsibility for the enforcement of this Ordinance is delegated to the Planning Director. The Planning Director may utilize other Town Departments/Agencies as necessary to enforce the provisions of this Ordinance.

2. Notice.

If the Planning Director finds that any of the provisions of this Ordinance are being or have been violated, the Planning Director shall notify in writing the person responsible for such violation, setting forth the nature of the violation and the action necessary to correct it.

3. Complaints.

- A. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a signed written complaint with the Town. Such complaint shall state fully the causes and basis thereof.
- B. The Planning Director shall properly record such complaint, immediately investigate to determine the validity of the charge, and take whatever action is necessary to secure compliance with this Ordinance.

4. Authority.

Any staff member of the Planning Department, who is authorized by Town Council, shall have the authority to enforce the provisions of this Ordinance.

**12A-703 REMEDIES AND ENFORCEMENT ACTIONS**

Purpose and Intent:

To define the enforcement powers of the Town of Kiawah Island and the remedies available when enforcement actions are taken.

1. On behalf of the Town, the Planning Director may take any one or more of the following actions as a remedy for any violation of this Ordinance:

- A. Withhold any approvals or permits required by this Ordinance or direct other

officials to withhold such approval or permits;

- B. Issue stop orders against any work undertaken by an entity not having a proper approval or permit required by this Ordinance;
- C. Issue stop orders against any actions in violation of this Ordinance;
- D. Bring an action for an injunction (or, in appropriate cases, for mandamus) to prevent the violation and/or to prevent the occupancy or use of any site or structure involved in the violation;
- E. Bring an action for injunction or mandamus to abate a violation; or
- F. Issue and personally serve on the violator an ordinance summons for violations observed first-hand.

A violation of this Ordinance is considered a misdemeanor.

**12A-704      PRIVATE ENFORCEMENT ACTIONS**

Purpose and Intent:

To define enforcement actions that may be taken by private individuals beyond the scope of the right of the Town to bring enforcement actions.

Any individual who is specifically damaged by any violation may, in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent the unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, or to correct or abate the violation, or to prevent the occupancy of the building, structure or land. This is in addition to the right of the Town to bring an enforcement action.

**12A-705      SECTION RESERVED FOR FUTURE USE**

**12A-706      SECTION RESERVED FOR FUTURE USE**

**12A-707      VIOLATIONS CONTINUED**

Purpose and Intent:

To define the continuance of violations and enforcement actions that occurred under previous zoning ordinances.

Any violation of the previous zoning ordinance will continue to be a violation under this Ordinance and be subject to penalties and enforcement under this Section, unless the use, development, construction, or other activity complies with all applicable provisions of this Ordinance, in which case enforcement action shall cease, except to the extent of collecting penalties for violations that occurred before the enactment of this Ordinance. Any prior lack of enforcement shall not constitute any degree of recognition, approval or other entitlement.

**12A-708      OTHER ENFORCEMENT ACTIONS**

Purpose and Intent:

To define enforcement actions concerning the Board of Zoning Appeals, zoning amendment applications, and other actions.

1.    Zoning Amendment Requests.

Zoning amendment applications shall not be accepted or processed when it is evident that a violation of this Ordinance exists on or in respect to the use of land that is the subject of the requested change.

2.    Contempt Before the Board of Zoning Appeals.

In case of contempt by any party, witness or other person before the Board of Zoning Appeals, such Board may certify such fact to the Circuit Court of the County wherein such contempt occurs and the judge of the court, after hearing, may impose such penalty as the facts authorize or require.

3.    Other Actions.

Nothing herein shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation.

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## ARTICLE 12C, SUBDIVISION REGULATIONS

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## CHAPTER 1. GENERAL PROVISIONS

### 12C-101      TITLE

This Ordinance shall be known and may be cited as the Subdivision Regulations of the Town of Kiawah Island, South Carolina ("Subdivision Regulations").

### 12C-102      JURISDICTION AND AUTHORITY

The jurisdiction of these regulations shall include all incorporated portions of Kiawah Island and the Town of Kiawah Island ("Town"), pursuant to Sections 6-29-1110 through 6-29-1200, of the South Carolina Code of Laws, Title 6, Chapter 29, South Carolina Local Government Comprehensive Planning Enabling Act of 1994, as amended, and which Subdivision Regulations have been drafted in accordance with the Comprehensive Plan for the Town of Kiawah Island.

### 12C-103      PURPOSE

- I. The purpose of these regulations, to the extent practicable, is to:
  - A. Provide for the harmonious development of the Town;
  - B. Control the subdivision of land;
  - C. Control the opening or extensions of any streets or roads;
  - D. Secure a coordinated major street and road layout which also provides necessary access to local and collector streets which, in turn, access adjoining subdivisions;
  - E. Protect residential areas from through traffic and other traffic hazards;
  - F. Ensure proper street intersection design;
  - G. Achieve individual property lots of maximum utility;
  - H. Secure adequate provisions for light, air, water supply, drainage and sanitary sewer facilities and other public health requirements;

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- I. Secure adequate provisions for transportation and circulation (vehicular and pedestrian);
  - J. Assure the timely provision of required streets, utilities, and other facilities and services to new land development;
  - K. Negotiate for the provision of needed public open spaces and building sites in new land developments through the dedication or reservation of land for recreational, educational, transportation and other public purposes;
  - L. Assure the wise and timely development of new areas, and redevelopment of previously developed areas in harmony with the Comprehensive Plan;
  - M. Provide accurate land records for the convenience and protection of the public and for adequate identification and permanent location of real estate boundaries;
  - N. Ensure the recording of necessary survey data prior to selling land; and
  - O. Provide for Planning Commission review and action on:
    - (1) land development plans and subdivision specifications;
    - (2) the width, character and location of streets, alleys and roads; and
    - (3) water mains, sewer lines and other utilities.

#### **12C-104**      **ADMINISTRATION**

1. Planning Director.

The Planning Director is hereby designated to administer these Subdivision Regulations for the Town.

2. Planning Commission.

The Kiawah Island Planning Commission shall act to approve, disapprove, approve with conditions all preliminary plats and final plats; review concept or site plans; and consider any waiver requests with respect to the requirements contained in these Regulations.

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**12C-105**      **SCOPE AND APPLICABILITY**

1. Within the jurisdiction of these Subdivision Regulations, except as hereinafter provided, no subdivision, plat or land development plan shall be made, platted or recorded for any purpose nor shall parcels resulting from such subdivisions be sold or offered for sale, and no building permit may be issued unless the proposed subdivision meets all requirements of these Subdivision Regulations, has been approved in accordance with the requirements of these regulations and until the plat or plan bears the stamp of approval and is properly signed by the designated authority.
  - A. All plats shall have the Town of Kiawah Island Stamp of Approval, or an exemption stamp on the plat.
  - B. The Register of Mesne Conveyance shall not record any plat without the Town of Kiawah Island Stamp of Approval.
  - C. Lands that were recorded by deed or plat prior to January 1, 1955, the effective date of the Charleston County Subdivision Regulations, and not subsequently subdivided, will receive automatic approval under a "grandfather clause," provided the parcel involved is the same size and shape as when initially recorded and is properly platted in accordance with standards set forth in this Ordinance. The recording information must be provided by the owner and attested to by a registered surveyor.
  - D. Lot(s) resulting from the subdivision of previously combined lots (two or more lots were combined to form a single lot) will receive automatic approval under a "grandfather clause" provided the lot(s) created shall result in lot sizes that are the same size and shape as when initially recorded and are properly platted in accordance with the standards set forth in this Ordinance.
  - E. The plat for an individual lot exempted by virtue of preexistence must be accompanied by a surveyor's statement that the lot is a single, individual lot and that it is not newly created.
2. The following shall be exempt from the requirements of Subsection 1 above:
  - A. The combination or re-combination of portions of previously platted lots where the total number of lots is not increased and the resultant lots thus created conform to these Subdivision Regulations.



- B. The combination or recombination of entire lots of record where no new street or change in existing streets is involved.
- C. The public acquisition of land for the widening of existing streets or the opening of new streets.
- D. Lots created and recorded prior to August 15, 1971 (the effective date of the Charleston County Zoning Ordinance which has subsequently been adopted and revised by the Town of Kiawah Island) providing the lot:
  - (1) Was or is surveyed and platted in accordance with prescribed standards;
  - (2) Has the approval of the Charleston County Health Department; and
  - (3) Contains no drainage ways or easements needed to drain surrounding properties.
- E. A division of land into parcels of five (5) or more acres is deemed an exception where no new street is involved. A copy of the plat showing such a division must be remitted to the Planning Commission as information.

#### **12C-106      AMENDMENTS TO SUBDIVISION REGULATIONS**

For the purpose of protecting the public health, safety and general welfare, the Town Council may, from time to time, amend these Subdivision Regulations after a public hearing, giving at least thirty (30) calendar days notice of the time and place, by publication, in a newspaper of general circulation in the Town.

#### **12C-107      COORDINATION WITH OTHER REGULATIONS**

- 1. It is the intent of the Town of Kiawah Island that these Subdivision Regulations be applied in a manner consistent with other regulations governing the use and development of land, including but not limited to zoning regulations, road specifications, floodplain regulations and other applicable Town regulations. Applications for permits required by other development regulations may be submitted simultaneously with applications for permits required by the Subdivision Regulations wherever feasible.

2. The use of buildings and land within the Town shall be subject to all other applicable provisions of the Town of Kiawah Island Municipal Code as well as these Subdivision Regulations, whether or not such other provisions of the Code are specifically cross-referenced herein.
3. In interpreting and applying the provisions of these regulations, they shall be construed to be the minimum requirements necessary for the promotion of public health, safety or general welfare. Whenever these regulations impose a more restrictive standard than required by any other law or regulation (e.g. Federal, State or County), these regulations shall govern.

**12C-108      CONFORMITY WITH ZONING ORDINANCE**

All plats and land development plans submitted under and reviewed pursuant to these Subdivision Regulations shall conform to all applicable zoning district regulations, zoning ordinance provisions, road code provisions and other relevant Town regulations and legislation. Any required zoning change shall be made prior to approval of a final plat.

**12C-109      FEES**

1. Fees will be levied in order to defray expenditures incurred by the Town in the provision of application processing, document copying, and other administrative services as required by these Subdivision Regulations. All processing fees are due upon submission of an application.
2. The amount of the processing fees required shall be determined by the Town Council.

**12C-110      CONFLICT**

These Subdivision Regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute or other provision of law except as provided in these regulations. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations, or other provision of law, the provision which is more restrictive or imposes higher standards shall control.

**12C-111      PENALTY**

The submission for filing or the recording of a subdivision plat or other land development plan without proper approval as required by these Subdivision Regulations, and any violation of these regulations or amendments thereof shall be a misdemeanor, and the offender, upon conviction, shall be punished as for a misdemeanor and any court of the Town having jurisdiction of misdemeanor cases shall have jurisdiction to try such offenders and, upon

conviction, to so punish them; and each day that any structure or land is used in violation of these regulations shall constitute a separate offense.

**12C-112**      **WAIVERS**

1. Where extraordinary hardships may result from strict interpretation of these Subdivision Regulations, the Planning Commission may, by an affirmative vote of at least two-thirds (2/3) of its members present at a meeting, approve a waiver from strict compliance with these Subdivision Regulations so that fairness is realized and the public interest is protected, provided that such waiver does not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Zoning Ordinance or these Subdivision Regulations.
  - A. The applicant shall submit a petition in writing stating clearly and definitely the reason for the waiver request. Consideration will be given if each of the following factors is found:
    - (4) Special and/or unique conditions affecting the property;
    - (5) Undue hardships that will result from adherence to one (1) or more of the relevant requirements; and
    - (6) Granting of the waiver will not be detrimental to adjacent properties, property owners or to the public interest.

**12C-113**      **SEVERABILITY**

If any part or provision of these Subdivision Regulations or the application of these regulations to any person or circumstances is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment has been rendered and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances. The Town Council hereby declares that it would have enacted the remainder of these regulations without any such part, provision, or application which is judged to be invalid.

**12C-114**      **EFFECTIVE DATE**

These regulations shall take effect and be in force from and after the date of their adoption by the Town Council.

## CHAPTER 2. PROCEDURE FOR SECURING APPROVAL OF A SUBDIVISION PLAT

### 12C-201      COORDINATION OF ZONING APPLICATION WITH SUBDIVISION APPROVAL

1. Where the Zoning Ordinance authorizes flexible zoning applications through a Planned Development process that permits the use of land and the density of structures to differ from that allowed as a use of right, approval by the Planning Commission shall be required. This is in addition to all other procedures and approvals required by the zoning ordinance, regardless of whether applicable zoning procedures require Planning Commission or Board of Zoning Appeals approval, review or recommendation.
2. In order to fully implement such flexible zoning techniques, applicants shall be required to submit applications for subdivision review simultaneously with applications for zoning approval. Depending upon the size and location of the proposed development, such applications shall conform with the subdivision application requirements of these regulations.

### 12C-202      GENERAL PROCEDURAL REQUIREMENTS FOR ALL PLAT APPLICATIONS

1. The overall procedure for plat applications is summarized in Figure 12C-1.
2. Attend a Pre-Application meeting (refer to Section 12C-203).
3. A complete application for approval of a Preliminary or Final Plat of a proposed subdivision shall be submitted to the Planning Director at least thirty (30) calendar days prior to a scheduled meeting of the Planning Commission at which the applicant desires the proposal to be considered. The Planning Director must certify the application as being complete prior to the application being submitted for review for approval by the Planning Commission. The Planning Director shall determine the completeness of an application within fifteen (15) calendar days of receiving an application. Incomplete applications shall be returned to the applicant. Any subsequent submission shall also be made at least 30 calendar days prior to a scheduled Planning Commission meeting.
4. The Planning Commission must receive each complete application for plat approval presented fourteen (14) calendar days or more prior to a scheduled meeting at which the applicant would like the application reviewed. The Planning Commission

shall "approve," "approve with conditions" or "disapprove" the complete subdivision application before them.

5. When a complete application for approval of a plat has been submitted to the Planning Commission, pursuant to Subsections 3 and 4 above, the Planning Commission shall grant approval, grant approval with conditions or disapprove the application within thirty (30) calendar days. Notice of the Planning Commission's action shall be mailed to the applicant within fifteen (15) calendar days after the meeting at which such action was taken. The thirty (30) calendar day time limit may be extended by mutual agreement between the applicant and the Planning Commission. Failure of the Planning Commission to act within sixty (60) calendar days from the time a complete application was received is deemed to constitute approval and the developer will be issued a letter of approval and authorized to proceed on the plans or plats and supporting documentation presented to the Planning Commission. The sixty (60) calendar day time limit for action by the Planning Commission may be extended by mutual agreement of the applicant and the Planning Commission.

### **12C-203**      **PRE-APPLICATION MEETING**

1. Purpose and Intent.

The purpose and intent of a Pre-Application meeting is to review the concept and overall layout of the proposed development prior to the applicant making a formal submission of an application to the Planning Commission for review, approval or disapproval.

2. Before any application is made pursuant to these regulations, the owner, the owner's agent, the applicant and/or the owner's engineer or land planning consultant shall meet with the Planning Director to review the procedures for submitting a complete application to the Planning Commission. This review shall include: the procedures and requirements for subdivision and/or site plan approval pursuant to these regulations, and more specifically, the tentative development plans of the applicant. Discussion shall focus on applicable provisions of these regulations, physical features of the proposed development, the availability of public facilities and services, the timing and placement of public improvements and the Comprehensive Plan, Zoning Map and street plan requirements for land use, parks, schools and public open spaces. Following this meeting, the applicant should contact the South Carolina Department of Health and Environmental Control to secure any permits required by that agency prior to submitting an application pursuant to these regulations.

Figure 12C-1

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**12C-204 PRELIMINARY PLAT - PROCEDURAL REQUIREMENTS**<sup>1</sup>

## 1. Purpose and Intent.

Approval of a Preliminary Plat by the Planning Commission shall constitute general acceptance of the overall planning concepts for the proposed subdivision and is a prerequisite for the filing of a Final Plat application.

## 2. The following procedure shall apply to all subdivisions seeking Preliminary Plat approval:

- A. Submission of a complete Preliminary Plat application (refer to Section 12C-205) by the subdivider's agent or property owner shall be made to the Planning Director at least thirty (30) calendar days prior to a scheduled meeting of the Planning Commission at which the applicant desires the proposal to be considered.
- B. Upon receipt of an application, copies of the preliminary plat shall be submitted by the Planning Director to the County Health Department and the Department of Public Works for review and recommendation. Their recommendations shall become part of the Planning Commission's records.
- C. No improvements shall be made nor shall permanent markers or monuments be installed prior to a granting of approval of the preliminary plat by the Planning Commission.
- D. Approval of the preliminary plat shall apply for three (3) years. Where a subdivision is being developed in phases or sections, the three (3) years shall be measured from the date of approval granted to that phase or section of the subdivision. The developer may apply in writing to the Planning Commission for a single six month time extension. It is the Developer/Property Owner and or Applicant's responsibility to submit a written request including/but not limited to all documentation identifying the progression of the project (example-land disturbance permits, approval letters from SC-DHEC for the construction of public water and sewer installation, etc.). All Documentation is to be submitted to the Planning Director and to be considered by the Planning Commission at minimum of two (2) months prior to the expiration date of the Preliminary Plat, but not more than six (6) months prior to the expiration date of the Preliminary Plat.

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<sup>1</sup> Amended by Ordinance 2009-1. Effective 2/3/2009.



The Planning Commission may terminate approval, for cause, at any time after three (3) years.

**12C-205**      **PRELIMINARY PLAT - APPLICATION REQUIREMENTS**

1. Application for preliminary approval shall be made in the office of the Planning Director and shall include such information as set forth below:
  - A. Ten (10) prints of the preliminary plat shall be filed with the Planning Director at the time of application. The Planning Director shall thereafter file such prints as follows:
  - B. One (1) print shall be filed with the County Health Department;
  - C. One (1) print shall be filed with the Department of Public Works;
  - D. One (1) print shall be filed with the County Building Inspection Department;
  - E. One (1) print shall be filed with the appropriate Public Service District Commission;
  - F. One (1) print shall be filed with Berkeley Electric Co-op or its successor;
  - G. One (1) print shall be filed with Bell South Telephone Company or its successor;
  - H. One (1) print shall be filed with the Tax Assessor; and
  - I. One (1) print shall be filed with the Clerk of the Town of Kiawah Island.
2. Preliminary plats shall be drawn to scale no smaller than 1" = 200'. Where large areas are being platted, they may be drawn on one or more sheets not to exceed thirty (30) inches by forty-two (42) inches in size. For small areas being platted, a scale of 1" = 100' shall be used, provided the drawing does not exceed thirty (30) inches by forty-two (42) inches increase in size.
3. Even though a subdivider intends to subdivide only a portion of a parcel or tract of land initially, the preliminary plat shall show a proposed street and lot layout, drainage plan, and other requirements for the entire parcel or tract of land in which such portion is contained.

4. The preliminary plat shall include the information listed in Table 12C-1.

**TABLE 12C-1: SUBDIVISION PLAT INFORMATION REQUIREMENTS**

Data To Be Submitted	Preliminary Plat	Final Plat
Title, scale, north arrow, date, names of developer and engineer/surveyor (with South Carolina registration number shown)	✓	✓
Perimeter land computations	✓	✓
Topographic data, with contours at 1-foot intervals, accurate to .5-foot, the Bench Mark and datum, and drainage features (proposed direction of flow, ditches)	✓	
References to known points and/or street intersections	✓	✓
The South Carolina Coastal Critical Line and Mean High Water Line	✓	✓
Total acreage and acreage above the Mean High Water Line	✓	✓
Adjacent and intersecting property boundary lines and names of adjacent landowners	✓	✓
Existing and proposed roads (width, type) and street rights-of-way (width)*	✓	✓
Lot lines, dimensions and angles other than ninety degrees (90°)	✓	✓
Key Location information	✓	✓
Wooded areas and sites reserved or dedicated for public uses (including bicycle paths)	✓	✓
Location of proposed apartments, churches and commercial uses	✓	✓
Availability of water and sewer service noted	✓	✓
Property lines with bearings and distances shown	✓	✓
Property lines with accurate bearings, points of intersection, deflection angles and arc curve data (points of curvature, delta angle, tangency, tangent distance, curve length and radius)		✓
Block and lot numbers, suitably arranged by a simple system	✓	✓
Easements (width, centerline)	✓	✓
Certificate: "I hereby state that to the best of my knowledge, information, and belief, the survey shown hereon was made in accordance with the requirements of the <i>Minimum Standards Manual for the Practice of Land Surveying in South Carolina</i> , and meets or exceeds the requirements for a Class ____ survey as specified therein"		✓

Signature and seal of the registered land surveyor in accordance with the <i>Minimum Standards Manual for the Practice of Land Surveying in South Carolina</i> .	✓	✓
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\*Note: utility installations shown on construction plans.

5. Accompanying Data.

- A. The preliminary plat shall be accompanied by a statement as to the availability of, and specific indication of the distance to and location of, the nearest public water supply and public sanitary sewers.
- B. The preliminary plat shall be accompanied by a statement indicating what provisions are to be made for water supply and sewage disposal.

6. Sight Lines for Inspection.

Sight lines shall be cut as appropriate for the purpose of making the topographic survey and to allow visual inspection of the property after application has been made for approval of the preliminary plat.

**12C-206 CONSTRUCTION PLANS**

1. Purpose and Intent.

After approval of a preliminary plat by the Planning Commission and before the commencement of any construction within the proposed subdivision, road plans and profiles and a detailed drainage plan shall be submitted to the Director of Public Works as required by the Road Code for approval.

2. The submittal shall include the original drawing and one copy of the road plans and profiles, drawn in ink or other permanent media, prepared as specified by the Road Code. Following approval, the Public Works Director shall be furnished with three (3) copies of the approved plans by the applicant.
3. The road plans shall be accompanied by a detailed drainage plan prepared in accordance with the requirements of the Road Code.
4. The approval of the road and drainage plans shall apply only for the duration of the approval of the preliminary plat, previously granted.

**12C-207**      **APPEAL OF PRELIMINARY PLAT DECISION**

Any person with a substantial interest in a Preliminary Plat decision of the Planning Commission or any officer, board, or bureau of the Town of Kiawah Island may appeal the Planning Commission's decision to the Circuit Court of Charleston County. Appellants shall file with the Court Clerk a written petition plainly and fully setting forth how such decision is contrary to law. Such appeal shall be filed within thirty (30) calendar days of the date of written notice of the Planning Commission's decision.

**12C-208**      **CONDITIONAL PLAT APPROVAL - PROCEDURAL REQUIREMENTS**

1. Purpose and Intent.

The Conditional Plat Approval procedures allow an applicant the right to install infrastructure, sell or otherwise transfer lots, receive zoning and building permits, but not to receive Certificates of Occupancy.

2. Prior to approval of a Final Plat, the developer shall install all required public improvements or post an approved financial guarantee of performance and maintenance, in accordance with the requirements of Sections 12C-403 and 12C-406. If financial guarantees are posted, the Planning Director shall be authorized to grant conditional plat approval, with final approval contingent upon completion and acceptance of all required improvements. After conditional plat approval is granted, the sale or otherwise transfer of subdivision lots shall be permitted and zoning permits and building permits may be granted, but no Certificates of Occupancy shall be issued until all required improvements have been installed and accepted.

**12C-209**      **FINAL PLAT - PROCEDURAL REQUIREMENTS**

1. Purpose and Intent.

Approval of a Final Plat by the Planning Commission shall constitute acceptance of the proposed subdivision and will be recorded with the Charleston County Register of Mesne Conveyance (Recorder's Office). Development of all approved lots and

improvements shown on the final plat shall conform with the Planning Commission's approved final plat.

2. The following procedure shall apply to all subdivisions seeking Final Plat approval:
  - A. Following approval of the preliminary plat, the developer, developer's agent or property owner shall provide such material as shall be required, pursuant to Section 12C-210, to the Planning Director.
  - B. If the final plat substantially conforms to the most recently approved preliminary plat and the requirements of these regulations, final approval shall be made by the Planning Commission.
  - C. When the Planning Commission has approved a final plat, it shall cause its action to be duly noted on the face of the original drawing, which is to be recorded. Such approval shall not be noted on the plat until all requirements of these regulations have been met.
  - D. The Town of Kiawah Island or its agents will record the approved final plat of more than one lot within fifteen (15) calendar days of final plat approval. Road and drainage, right-of-way, and easement maintenance will be the responsibility of the applicant until such responsibility is transferred in accordance with the covenants of the Kiawah Island Community Association, Inc. (KICA), or until such responsibility is transferred to another responsible entity. If the plat should specifically state that KICA is not obligated to maintain the road(s) and/or drainage easement(s), then the entity to assume this responsibility must be designated. If there is a delay between the date of the final plat approval and transfer of maintenance responsibility to the KICA or other responsible entity for the road and/or drainage system, then the applicant shall retain such maintenance responsibility until such transfer occurs.
  - E. When an application for final approval has been disallowed by the Planning Commission, reapplication for subdivision of the same parcel of land shall not be permitted until ninety (90) calendar days has expired from the date of official action of the Planning Commission. The Planning Commission, may, on a case by case basis, waive the waiting period requirement by a three-fifths (3/5ths) vote and direct the Planning Director, in writing, to

process the application before the waiting period has expired when to do otherwise would create substantial, unnecessary hardship.

**12C-210**      **FINAL PLAT - APPLICATION REQUIREMENTS**

1. Applications for final approval shall be made in the offices of the Planning Director and shall include such information as set forth below. For large subdivisions, the final plat may be submitted for approval progressively in sections conforming to the approved preliminary plat.
2. The original drawing of the final plat which is to be filed and recorded, plus eleven (11) prints of such plat, shall be submitted with the application. The Planning Director shall, thereafter, file such prints as follows:
  - A. One (1) print shall be filed with the County Health Department;
  - B. One (1) print shall be filed with the Department of Public Works;
  - C. One (1) print shall be filed with the County Building Inspection Department;
  - D. One (1) print shall be filed with the appropriate Public Service District Commission;
  - E. One (1) print shall be filed with Berkeley Electric Co-op or its successors;
  - F. One (1) print shall be filed with the Bell South Telephone Company or its successors;
  - G. One (1) print shall be filed with the Tax Assessor;
  - H. One (1) print shall be filed with the Clerk of the Town of Kiawah Island; and
  - I. One (1) print shall be filed with the Kiawah Island Community Association.
3. The final plat shall be drawn in ink, or other permanent media, on a material specified to the Planning Director by the Register of Mesne Conveyance as

acceptable to him for recording, on sheets not to exceed twenty-two (22) inches by thirty-four (34) inches, and at a scale of 1" = 100' or larger. Minimum plat size to be eight and one-half (8 ½) inches by eleven (11) inches. Where necessary, the plat may be on several sheets accompanied by an index sheet or key map insert showing the entire subdivision.

4. The final plat shall include the information listed in Table 12C-1.
5. Accompanying Data.
  - A. A certificate of title or a sworn affidavit establishing the ownership of the land to be recorded. If any change in ownership occurs subsequent to the date of the certificate of title or affidavit and prior to the granting of final approval by the Planning Commission, then a new certificate of title or sworn affidavit establishing the ownership of the land shall be submitted to the Planning Commission.
  - B. In subdivisions where existing public water and public sewer systems have been extended or a new system installed, a certification of inspection from the South Carolina Department of Health and Environmental Control shall be submitted to the Planning Commission.
6. Certification of Approval.

When the Planning Commission has approved such plat, a certificate noting such approval and carrying the signature of the Planning Director and the Chairman of the Planning Commission, or their designee, shall be placed on the original drawing of said plat.

7. Statements on Plat.
  - A. The Town of Kiawah Island reserves the right to require the following statements to be placed upon the plat:
    - (7) "The approval of this plat does not obligate the Town of Kiawah Island in any way to accept for maintenance any of the roads or easements shown hereon," and
    - (8) "WARNING! Approval of this plat by the Planning Commission does not indicate approval nor adjudicate title of the access to right-of-way shown hereon."

- B. The Planning Commission reserves the right to require additional statements to be placed upon the plat if the proposed subdivision does not meet all requirements of the Subdivision Regulations. These notes shall be included in the approval of the final plat by the Planning Commission.

**12C-211**      **DEDICATIONS**

The Final Plat shall substantially conform to the most recently approved preliminary plat. All improvements and facilities must be installed prior to the issuance of an occupancy permit, or adequate security in lieu of making improvements shall be provided in accordance with Section 12C-403 of these regulations. All required dedications and easements shall be offered by the developer; however, approval of the Final Plat shall not itself constitute acceptance of land for dedication to the Town or their assigns. Acceptance by the Town requires separate, formal action of Town Council by ordinance.

**12C-212**      **APPEAL OF FINAL PLAT DECISION**

Any person with a substantial interest in a Final Plat decision of the Planning Commission or any officer, board, or bureau of the Town of Kiawah Island may appeal the Planning Commission's decision to the Circuit Court of Charleston County. Appellants shall file with the Court Clerk a written petition plainly and fully setting forth how such decision is contrary to law. Such appeal shall be filed within thirty (30) calendar days of the date of written notice of the Planning Commission's decision.



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## CHAPTER 3. DESIGN STANDARDS

### 12C-301      LOCATION

No platting of land for residential use is to occur in undrained areas or areas subject to flooding unless suitable provisions are made for satisfactory drainage. The drainage system shall be designed and constructed in accordance with the requirements of the Road Code. Soil erosion and sediment control shall meet state requirements.

### 12C-302      LOTS

1. The size, dimensions and minimum building setback lines of lots shall be consistent with the zoning regulations. The depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and the use contemplated. The area in square feet or acreage for each lot surveyed shall be shown on the plat.
2. Depth of residential lots shall not exceed four (4) times width, except in the case of attached dwellings or in cases where portions in excess of that depth are for the purpose of providing separation from major streets. Lot dimensions of non-rectangular lots adjacent to identified Office of Ocean and Coastal Resource Management Critical Line areas may vary from the ratios noted above to allow for appropriately sized buildable areas and location of access. The depth-width ratio shall not apply in cases where the width of a lot exceeds 300 feet for its entire depth or in subdivisions of three (3) or less lots.
3. The minimum frontage of any flag lot or cul-de-sac lot shall be twenty (20) feet. If the length of the flag exceeds 200 feet then a fire hydrant shall be placed near the residence side terminus of the flag lot drive.
4. A residential lot served by a water and sewer system approved by the State of South Carolina shall have the minimum lot area as specified for the zoning district, exclusive of water bodies and land below the mean high water line.

5. Residential lots that require the installation of individual wells and/or septic tanks shall be required to meet the minimum area requirements standards as designated by the South Carolina Department of Health & Environmental Control as well as the requirements of this Ordinance. Any residential lot within 600 feet of a public sewer line must be connected to the sewer system in conformance with Section 10-201, Use of Public Sewers, of the Municipal Code.
6. Corner lots shall have extra widths where necessary to permit the establishment of sight area easements. On all corner lots, there shall be provided a sight area easement. This easement shall be that triangle formed by the intersecting street right-of-way lines adjacent to each corner lot and a line across the corner of the lot between points twenty-five (25) feet from the street intersection along each street right-of-way line. Within this easement no building, no earth bank, no vegetation, and no other obstruction shall be allowed which is more than two (2) feet in height above the centerline finished grade of the road. In lieu of dedicating a sight area easement, the developer may show said area as part of the road right-of-way.
7. Lots which have double frontage shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. An easement of at least ten (10) feet in width and across which there shall be no right of access may be required along the lines of lots abutting such a traffic artery or other disadvantageous use. No right of access shall be granted except by Town Council.
8. All lots shall be provided with access (ingress and egress) by means of streets which are constructed in conformance with standards and specifications prescribed the Road Code. Approval shall be contingent upon the providing for continued maintenance of such streets by the Town of Kiawah Island, Kiawah Island Community Association, Inc. or other responsible entity. Such association or entity shall be an organization operating under agreements of public record that have been reviewed and considered legally binding by the attorney for Town Council and to also ensure that the Town of Kiawah Island shall not be liable for any maintenance and upkeep responsibilities. The agreements shall provide for an easement and lien against abutting lots or membership in favor of said association or entity for the continued maintenance of such streets.
9. All quadrangular lots and, so far as practical, all other lots should have side lines at right angles to straight street lines or radial to curved street lines.

10. Lots for other than residential use shall have sufficient space for off-street parking, loading and unloading, and circulation of traffic as stipulated in the Zoning Ordinance.

### **12C-303      EASEMENTS**

1. Drainage easements or sewer easements along rear and side property lines shall be required where necessary. Drainage easements across lots shall not be allowed without a waiver from the Planning Commission. Redesign of the lot arrangement may be required to meet extreme drainage conditions.
2. Drainage easements shall be provided to the Kiawah Island Community Association, Inc. or other responsible entity in accordance with the requirements of the Kiawah Island Covenants recorded in the Charleston County Register of Mesne Conveyance Office.
3. Easements shall be centered along or be adjacent to a common property line where practical.
4. No subdivision shall block or obstruct the natural drainage of an adjoining area.
5. Existing natural drainage shall be retained or adequately relocated.
6. All easements for drainage or sewer shall be selectively cleared of undergrowth, trees and other obstructions by the developers prior to final approval. This does not apply to easements which are provided for possible future use.
7. Any existing or proposed utility line easement shall be located.
8. Any conservation easement or otherwise restricted land shall be located.

### **12C-304      BLOCKS**

The lengths, widths and shapes of blocks shall be determined by consideration of the following factors:

1. Provisions of adequate building sites suitable to the special needs of the type of land use (residential, commercial or other) considered for development;
2. Zoning requirements defining lot sizes and dimensions;

3. Requirements for convenient access, circulation, control and safety of street traffic;
4. Recognition of topographical and drainage features.

**12C-305      STREETS**

1. The layout of streets as to arrangement, character, width, grade and location shall generally conform to the comprehensive plan, to adjoining street systems or adjoining properties, and to the topography, natural features and drainage systems.
2. Minor streets shall be so laid out that their use by through traffic will be discouraged.
3. Where a subdivision abuts or contains an existing or proposed arterial street, the Planning Commission may require marginal access streets, reverse frontage with screen planting, deep lots or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
4. The minimum distance between two streets intersecting with another street shall be 125 feet.
5. A tangent of at least 100 feet shall be introduced between reverse curves on arterial streets.
6. When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius of not less than 100 feet for minor and collector streets and of such greater radii as the Planning Commission shall determine for special cases.
7. Streets shall be laid out so as to avoid acute angles between streets at their intersections.
8. Property lines at street intersections shall be rounded with a radius of not less than fifteen (15) feet. Larger radii may be required by the Planning Commission when, in its opinion, such design is advisable to permit the construction of curbs of large radius.
9. Street right-of-way widths shall be not less than the following:

<u>Street Type</u>	<u>Minimum Right-of-Way Width (Feet)</u>
Arterial Street	60
Collector Street	60

Minor Street (for row houses & apartments)	60
All Other Minor Streets	50
Cul-de-sac Street	40
Alley	24

10. Street right-of-way widths of over sixty (60) feet, for other than Arterial or Collector Streets, will be required only when justification of traffic need or street drainage can be shown. Where streets of arterial nature (80 to 120 feet right-of-way) are needed, the applicant shall convey the full width.
11. Half streets along property lines shall be prohibited.
12. No street names shall be used which will duplicate or be confused with the names of existing streets. Street names proposed by the applicant shall be checked by the Planning Director and, where duplication or confusion with the names of existing streets occurs, the Planning Director shall require the applicant to substitute names free from duplication or confusion. The Planning Director shall maintain an up-to-date file of all street names in use in the Town, which shall be available to all developers.
13. Streets and intersection approaches shall not be excessive in grade nor be less than three-tenths (0.3) of one (1) percent in the profile. Variation from these grades may, however, be recommended by the Planning Commission, where advisable, to adjust to topographical conditions.
14. Alleys are permitted and shall be constructed in conformance with the requirements of the Road Code and shall also comply with the Zoning Ordinance. Utilities will not be permitted in alleys unless additional right-of-way is provided.
15. Meandering or winding roadways shall be permitted and constructed in conformance with the Road Code.
16. Center line striping and/or roadbed centerline reflectors may be required for streets and portions of streets at the discretion of the Director of Public Works or the Director of Planning.
17. Stub streets extending to the boundary line of the subdivision shall be constructed as part of the development at the time of construction of the other streets in the development and shall be of the same construction as other streets in the subdivision.



## CHAPTER 4. REQUIRED IMPROVEMENTS

### 12C-401 MARKERS

1. Markers shall be placed as specified below:
  - A. A marker shall be set on the right-of-way line at the end of the block for every block length of street. When blocks occur that have a curve or curves in them, markers shall be set on both sides of the street at the ends of tangents. Markers shall also be set on right-of-way lines (on each side of the centerline) at angle points when curves are not used. All interior lot corners shall be marked.
  - B. Markers shall be one of the following:
    - (1) A reinforced concrete marker with brass or copper pin in the top. Concrete markers shall be a minimum of three (3) feet long and have a minimum cross sectional area of nine (9) square inches. They shall protrude above the ground not less than 2 inches and not more than six (6) inches; or
    - (2) An iron pipe or pins having a minimum diameter of 3/4 inches hollow or 1/2 inch solid steel. Such iron pins will be a minimum of 2 feet in length and shall extend above the ground at least 1 inch.
2. Markers shall be installed prior to the submission of and approval of the final plat.
3. The location and type of all markers used shall be indicated on the final plat.
4. All surveys shall conform to the requirements of the Minimum Standards Manual for the Practice of Land Surveying in South Carolina

### 12C-402 UTILITY, DRAINAGE AND STREET IMPROVEMENTS

1. Utility, drainage and street improvements shall be as required by and in conformance with the standards and specifications of the current edition of the Road Code and Zoning Ordinance, and pursuant to regulations promulgated by the South Carolina Office of Ocean and Coastal Resources Management and the South Carolina Water Resources Department.



2. No road improvements shall commence until the Director of Public Works shall affix his signature to the original drawing of the plans and profiles as submitted, and all improvements shall conform to the set plans and profiles so signed.
3. Curbs and gutters, where provided for by the Road Code, shall be provided in accordance with the standards and specifications of the Road Code.
4. The developer shall install approved water lines where private water service is available within 500 feet of the property.
5. The developer shall install approved sanitary sewer lines where private sanitary sewer service is available within 500 feet of the property.
6. Street name signs and traffic control signs conforming to standards of the Kiawah Island Architectural Review Board shall be installed by the developer prior to any road being accepted by the Kiawah Island Community Association, Inc. or other responsible entity.
7. All required drainage facilities shall be properly constructed in accordance with the standards and specifications of the Road Code.
8. Utility lines shall be located so that they will not interfere with the proper functioning of other utilities or right-of-way.
9. All lots not exceeding 200 feet in depth shall be provided with means for positive drainage. Larger tracts of land shall be properly drained.

### **12C-403 PERFORMANCE BONDS**

1. In lieu of completing the required improvements listed in this section, a no-contest, irrevocable bank letter of credit, or performance and payment bond underwritten by an acceptable South Carolina licensed corporate surety, or a cashier's check may be accepted by the Planning Commission, providing the attorney for the Town of Kiawah Island has, in each instance, reviewed each letter of credit or bonding agreement and has presented his opinion that the interests of the Town of Kiawah Island are fully protected. Where a cashier's check is utilized, opinion of counsel may be waived.
2. The amount of the bond for a corporate surety, irrevocable bank letter of credit, or cashier's check will be determined by the appropriate governmental body that exercises operational control and the Director of Public Works for all other improvements covered under this section. Surety shall be sufficient to guarantee completion of the required improvement.

Sufficient surety shall be one and one quarter (125%) of the actual cost of the improvement, with a minimum of \$2,000.00, for a time period specified by the governmental agency, not to exceed two years. The governmental agency determining the amount of bond (bondholder), irrevocable bank letter of credit or cashier's check shall provide a letter to the Planning Commission (copy to the subdivider) setting forth the amount of bond, conditions of acceptance, and the period covered. The Planning Director will inform all interested governmental agencies, including the Building Inspection Department.

3. Upon completion of the improvements as required by this section, written notice thereof shall be given by the subdivider to the bondholder, who shall cause an inspection of the improvements to be made. The bondholder will, within 30 days of the date of notice, authorize in writing the release of the security given, provided improvements have been completed in accordance with the required specifications. Should the improvements not be completed in accordance with the required specifications by the date originally stipulated in writing by the bondholder, the funds derived from said bond or cashier's check will be used by the bondholder to complete the improvements, according to required specifications, at the earliest reasonable time. Where it appears that the bond was insufficient to finance the required improvements after the applicant has defaulted, the Planning Commission will assess the individual applicant the cost of the improvements over and above the surety amount.
4. In no instance will the bondholder be authorized to extend for the applicant the completion date originally stipulated.
5. Prorated refunds based on a percentage of overall completion shall not be authorized, with the exception of an irrevocable bank letter of credit. The Planning Commission, may, at its discretion, refund no more than 90% of the original estimated completion cost of that portion of the project requested by the applicant.
6. The Planning Commission shall review, approve or reject each acceptance of surety in lieu of completion of improvements. In making its determination, the Planning Commission shall give due consideration to the commitments made by the applicant to individual purchasers.

#### **12C-404 ACCEPTANCE OF GUARANTEE OF A GOVERNMENTAL AGENCY**

In lieu of completed improvements required in Chapters 3 and 4 of this Ordinance, the Planning Commission may accept the written guarantee of a governmental body to complete required improvements within ninety (90) days of the date of such acceptance by the Planning Commission.

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**12C-405 OCCUPANCY CONTROL**

The acceptance of performance bonds or a cashier's check in lieu of completed performance is made possible only by the introduction of effective occupancy control. This control will be coordinated with final approvals so as to ensure that all required improvements are installed and all conditions covered by one or more bonds are completely fulfilled, except as specified in Section 109.1 of the Town of Kiawah Island Building Code, before an occupancy permit can be issued by the Town of Kiawah Island Inspection Department.

**12C-406 MAINTENANCE GUARANTEE**

Street and Stormwater management/drainage systems that are to be dedicated to the Town of Kiawah Island, the Kiawah Island Community Association, or other responsible entity, or their assigns, for public maintenance shall be under warranty for all defects and failures for a period of one (1) year from the time of approval by the Public Works Director following a final inspection of improvements to be dedicated. Prior to Final Plat approval, the developer shall provide written verification of financial responsibility for the correction of any defects and/or failures in those related improvements that will be dedicated. The warranty (minimum 10 percent of the construction costs) shall be in an amount and a form satisfactory to the Public Works Director and effective for a period of one (1) year. The financial warranty shall be in the form of a no-contest, irrevocable bank letter of credit, a performance and payment bond underwritten by an acceptable South Carolina licensed corporate surety, or a cashier's check. Payment is subject to the Town Attorney's approval of the guarantee to determine that the interests of the Town of Kiawah Island are fully protected, except when a cashier's check is utilized opinion of counsel may be waived. The Public Works Department shall maintain surveillance over the system and provide written notification to the developer if repair work is required during the warranty period. The Public Works Department shall identify defects not considered to be public safety and notify the developer of such defects. The developer shall then have 30 days to prepare a schedule of corrective actions and begin such corrective actions. If not complete with the approved schedule, the Public Works Department shall make the repairs and bill the bonding company. Public safety defects shall be addressed immediately by the Public Works Department, with reimbursement from the bonding company.

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**ARTICLE 12E, ROAD CODE**

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## CHAPTER 1. GENERAL PROVISIONS

### 12E-101      TITLE

This Ordinance shall be known and may be cited as the Road Code: Standard Specifications for the Design and Construction of Road and Drainage Systems of the Town of Kiawah Island, South Carolina ("Road Code").

### 12E-102      APPLICABILITY AND AUTHORITY

The jurisdiction of these regulations shall include all incorporated portions of Kiawah Island and the Town of Kiawah Island ("Town"), pursuant to Section 6-7-330, of the South Carolina Code of Laws, 1976, as amended ("South Carolina Code"), and drafted in accordance with a comprehensive plan.

### 12E-103      PURPOSE

The purpose of the Road Code is to:

1. Provide land developers and design professionals with a set of technical criteria for use in the design and construction of road and drainage systems that are either intended to be included in the maintenance system of the Town or are being required to be built to Town standards;
2. Promote the orderly development of property within Kiawah Island;
3. Obtain safe, adequate, functional road and drainage systems;
4. Ensure adequate maintenance capabilities for the road and drainage systems; and
5. Enhance land use planning and design.

### 12E-104      ADMINISTRATION

1. Town Council.
  - A. The Town Council of Kiawah Island may, from time to time, adopt amendments.

- B. Before taking action on any proposed amendment, Town Council shall hold a public hearing at such time and date as specified by Town Council. In scheduling a public hearing for a proposed amendment, the Town Council shall give public notice in a daily newspaper in the County. The first notice shall be at least fifteen (15) days prior to the public hearing, with the second notice published at least seven (7) days after the first public notice. Date, place, and time of the hearing shall be included in the public notice.
2. Project Inspection.

All work required by the Town of Kiawah Island for the development being considered shall be inspected by the Director of Public Works for compliance with the approved plans and specifications. The Director of Public Works will make inspections when:

    - A. Appropriate plats have been approved by the Planning Director;
    - B. Construction plans and specifications have been approved by the Director of Public Works; and
    - C. Sufficient notice is given. The developer should give one (1) week notice prior to the beginning of any work at the site. After the initial notice, twenty-four (24) hours notice should be given prior to the beginning of each operation or continuation of the operation when the work has been disrupted for more than one day.

**12E-105**      **RESPONSIBILITY OF DEVELOPER**

1. The developer is responsible for providing:
  - A. The completed roadway or drainage system for the development being considered. The roadway or drainage system shall be complete and acceptable to the Town, pursuant to all conditions and requirements of these regulations including the construction standards shown in Article 12F.
  - B. Appropriate and adequate evidence that the system also is acceptable to any other reviewing agency, as applicable, prior to the time that the system is formally accepted by the Town;
  - C. Adequate, competent and professional personnel to:

- (1) prepare and design a development project acceptable to the Town;
  - (2) oversee and coordinate the presentation, reviews and revisions of the designs with the appropriate agencies;
  - (3) obtain any required approvals, permits, etc.;
  - (4) arrange the layout of the designs during the construction phase;
  - (5) arrange inspections by the Town of Kiawah Island; and
  - (6) arrange any required as-built records, record plats, etc.
- D. Competent construction personnel with appropriate equipment and skills to complete the development in a manner acceptable to the Town.

**12E-106**      **RESPONSIBILITY OF THE DESIGN PROFESSIONAL**

The design professional of record must be registered to practice in the State of South Carolina. The designs must be prepared by him or under his direct supervision in accordance with South Carolina Code Section 40-21 and the Rules of Professional Conduct. The designs must meet all requirements of sound engineering judgement. Approval of the designs by the Town does not relieve the design professional of responsibility for any deficiencies in the designs.

**12E-107**      **RESPONSIBILITY OF LAND SURVEYOR**

The land surveyor of record must be registered to practice land surveying in the State of South Carolina. The surveys must be prepared by him or under his direct supervision in accordance with South Carolina Code Section 40-21 and the Rules of Professional Conduct. The surveys must meet all requirements of sound engineering judgement. Approval of the designs by the Town does not relieve the land surveyor of responsibility for any deficiencies in the surveys.



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**12E-108**      **COORDINATION WITH OTHER REGULATIONS**

- 1      It is the intent of the Town of Kiawah Island that these regulations be applied in a manner consistent with other regulations governing the use and development of land, including but not limited to subdivision regulations, road specifications, floodplain regulations and other applicable Town regulations. Applications for permits required by other development regulations may be submitted simultaneously with applications for permits required by the zoning regulations wherever feasible.
  
- 2      The use of buildings and land within the Town shall be subject to all other applicable provisions of the Town of Kiawah Island Municipal Code as well as these regulations, whether or not such other provisions of the Code are specifically cross-referenced in this ordinance. Cross-references to other provisions of the Code in these regulations are for the convenience of the reader; lack of a cross-reference should not be construed as an indication that other provisions of the Code do not apply.
  
- 3      In interpreting and applying the provisions of these regulations, they shall be construed to be the minimum requirements necessary for the promotion of public health, safety or general welfare. Whenever these regulations impose a more restrictive standard than required by any other statute or regulation, these regulations shall govern.

**12E-109**      **COORDINATION WITH OTHER REVIEWING AGENCIES**

Approval of any roadway or drainage system proposal is contingent upon the approval, authorization, permit, or acceptance required of the proposal by any other organization or agency, as applicable. A copy of the required approval, authorization, permit, or acceptance must be submitted to the Director of Public Works prior to Town approval of the construction plans.

**12E-110**      **COORDINATION WITH OTHER DEVELOPMENT PROJECTS**

The roadway or drainage system must be complete and functional at the time that it is accepted by the Town. If the proposed system is dependent upon a contiguous system, existing or proposed, public or private, that contiguous system also must be in a condition acceptable to the Town at the time that the proposed system is accepted by the Town.

**12E-111**      **GENERAL REQUIREMENTS FOR CONSTRUCTION PLANS**

## 1      Construction Plans and Specifications.

The developer shall provide construction plans which indicate a comprehensive outline of the development proposal. The construction plans shall include profile and cross-section views, and details and specifications of the development proposal.

## 2      Procedure for Obtaining Approval of Street Plans and Profiles.

A.      After preliminary subdivision approval has been granted by the Town Council, and prior to the beginning of construction of the streets and drainage system, including clearing and grubbing, the design professional shall prepare and submit the original and one (1) copy of the construction plans and profiles to the Director of Public Works for review and approval. This provision is not intended to prevent the clearing of minor trails required to access the property.

B.      The Director of Public Works, after having reviewed the proposed plans and profiles, and having found them to be satisfactory, shall place upon the original drawing an appropriate stamp of approval.

C.      The developer shall furnish the Director of Public Works with:

(1)      Three (3) copies of the approved and stamped plans and profiles prior to the beginning of construction; and

(2)      One (1) copy of "as-built" on reproducible mylar sepia prior to Final Plat approval by the Town Council.

## 3      Plan and Profile Standards.

The following standards shall be observed in the design and preparation of plans and profiles:

A.      Plans and profiles shall be prepared on Standard Federal Aid (Plate 1) Single Plan-Profile sheets 24"x 36" or equivalent, and include a profile at the bottom of the page and the plan at the top of the page;

B.      All elevations shall be in the datum of Mean Sea Level or NGVD;

## C. Scales shall be:

- (3) Vertical - 1" = 2' minimum; and
- (4) Horizontal - 1" = 50' minimum;

## D. Each sheet must show a plan above the proposed profile on which must be shown:

- (5) Stations along the centerline of the proposed road, with appropriate ties at intersecting streets;
- (6) The width of the right-of-way and names of proposed roads and existing roads shown;
- (7) Alignment information, including curve data with P.C., P.T. and P.I., angle points, angles at intersections and other pertinent information;
- (8) Arrows showing direction of drainage along drainage ways, across lots and at intersections;
- (9) Existing utility lines and drainage structures, with type and size together with existing drainage easements;
- (10) Proposed utility lines, drainage structures, and drainage rights-of-way; and
- (11) Bench marks with locations, description and datum, etc., including bench mark from which levels were started.

## E. Profiles shall show:

- (12) The existing street center line plotted from elevations taken, showing all breaks in grade, but in no case more than one hundred (100) feet apart;
- (13) The existing street to which tie is being made for a distance of approximately two hundred (200) feet.
- (14) Proposed street center line profile with center line elevation every fifty (50) feet on vertical curves and every one hundred (100) feet along straight grades and at intersections;

- (15) Vertical curve data;
  - (16) Proposed and existing storm drains, sanitary sewers, water mains, pipe underdrains and crossline pipe;
  - (17) Pertinent drainage data including drainage area, runoff coefficient, time of concentration (with computations), average rainfall intensity, runoff, and slope (feet per foot) for each line of pipe and each ditch or canal, unless this information is shown on a separate detailed drainage sheet;
  - (18) A statement to be placed by a design professional on road and drainage plans: "All materials and workmanship shall be in accordance with requirements of the Town of Kiawah Island Road Code";
  - (19) The design professional's seal, signature, and South Carolina registration number; and
  - (20) Existing and proposed grades of all ditches, pipes and swales on site, and existing and proposed grades of all out-fall drainageways.
- F. An overall general drainage plan shall be submitted with the plans, profiles and specifications. This drainage plan shall show the street and drainage arrangement, the sizes and invert elevations of drainage pipes, the width of proposed and existing drainage easements, the direction of drainage flow (using arrows), and existing canals, tidal streams, etc.
- 4 Expiration Date of the Town of Kiawah Island's Approval of Construction Plans and Specifications.
- A. Approval of construction plans and specifications shall apply for the same time period as the preliminary plat, (the Town of Kiawah Island Subdivision Regulations).
  - B. The design professional may re-submit the plans and specifications for a new review subject to the Town of Kiawah Island's construction and design standards at the time of re-submittal.

**12E-112**      **FEES**

## 1      Processing Fees.

Fees will be levied in order to defray expenditures associated with application processing, document copying, and other applicable fees as required by these regulations. Upon submission of the construction plans as required in these regulations, the applicant shall submit such required filing fees as established by the Town Council. Fees are non-refundable, and shall be collected prior to the submittal or re-submittal of plans for approval.

## 2      Determination of Fees.

The amount of fees required by this ordinance shall be determined by the Town Council, adopted by resolution, and incorporated into Article 12H of this Code.

## 3      Exception to Fees.

When any application required by this title is submitted by a governmental agency, public school or church, no fee shall be required by the Town.

**12E-113**      **SEPARABILITY**

If any subsection or provision hereof shall be held to be unconstitutional, void, or unenforceable, the balance of the ordinance in its entirety shall continue to be and remain in full force and effect.

**12E-114**      **PENALTY**

Any violation of these regulations or amendments thereof shall be a misdemeanor under the laws of this State, and the offender, upon conviction, shall be punished as for a misdemeanor and any court of the Town having jurisdiction of misdemeanor cases shall have jurisdiction to try such offenders and, upon conviction, to so punish them; and each day that any structure or land is used in violation of these regulations shall constitute a separate offense.

**12E-115      INTERPRETATION AND DEFINITIONS**

For the purpose of these regulations, certain terms and words used herein shall be used, interpreted and defined as set forth in Article 12G.

**12E-116      EFFECTIVE DATE**

These regulations shall take effect and be in force from and after the date of their adoption by the Town Council, on the \_\_\_\_ day of \_\_\_\_\_, 1994.

## CHAPTER 2. DESIGN ELEMENTS FOR STREETS

### 12E-201      INTRODUCTION

This section is intended to serve as a construction and layout guide for streets and roads

### 12E-202      USE OF GUIDELINES

A street geometric design is based on the type of development it is to serve. This includes: single family residential, multi-family residential and commercial. Each may require a different type design. The design professional shall prepare a design for the development's roadways utilizing the criteria included within this Road Code and the Subdivision Regulations as a guide. Site or project conditions requiring special geometric requirements of roadway and/or right-of-way shall be approved by the Planning Director upon concurrence by the Director of Public Works.

### 12E-203      TYPES OF STREETS

For the purpose of this section of the Road Code, streets are considered to be paved streets. Paved streets are those in which the traveled roadway is constructed of a layer or layers of materials, with the surface usually being constructed of portland cement concrete or asphalt concrete.

### 12E-204      GENERAL DESIGN REQUIREMENTS

1      Required Minimum Street Elevations.

The minimum street centerline elevation at finish grade shall be six and one-half (6.5) feet above Mean Sea Level.

2      Required Minimum Profile Gradient.

A.      On streets constructed using the Open Swale Ditch Roadway Section and on streets and alleys using the Concrete Curb and Gutter Sections, the minimum street profile gradient shall be 0.3%.

B.      On streets and alleys constructed using Asphalt Swale Section, the Asphalt Roll Curb Section or the Inverted Crown Section, the minimum street profile gradient shall be 0.5%.

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- C. On causeways through wetland areas, the minimum street profile gradient may be 0.0%
- 3 Criteria for Determining Right-of-Way Width.
- A. The required right-of-way must be sufficient to provide for the following:
- (21) Drainage;
  - (22) Pavement (and curbing where provided);
  - (23) Shoulders;
  - (24) Sidewalks where installed; and
  - (25) Utilities, such as street lights, street name signs, traffic control signs and overhead and underground utility lines such as electric, telephone, cable TV, gas, water and sewer.
- B. Minimum right-of-way widths as are specified in the Kiawah Island Subdivision Regulations - Section 12C-302.
- 4 Required minimum pavement width.
- A. For a standard residential street with open roadside swale drainage ditches, a minimum pavement width of twenty (20) feet for the surface course with a base course of twenty-one (21) feet is required.
- B. For a standard residential street with a standard two (2) feet wide concrete curb and gutter, a minimum pavement width of twenty (20) feet, exclusive of the curb and gutter, is required.
- C. For divided curb and gutter entrances, a minimum pavement width of twelve (12) feet, exclusive of the curb and gutter, is required for each lane.
- 5 Center line striping will be required for streets and portions of streets at the discretion of the Director of Public Works or the Planning Director.



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**12E-205      STUB STREETS**

Stub streets extending to the boundary line of the subdivision shall be constructed as part of the development at the time of construction of the other streets in the development, and shall be of the same construction as other streets in the subdivision.

**12E-206      CUL-DE-SAC STREETS**

Cul-de-sac streets are permitted provided the following minimum standards are satisfied:

- 1      Circular turn-arounds may be allowed provided:
  - A.      Minimum right-of-way radius is fifty (50) feet;
  - B.      Minimum road surface radius is forty (40) feet (exclusive of curb and gutter);
  - C.      Minimum pavement width is twenty (20) feet; and
  - D.      Islands, if provided, shall be approved by the St. John's Fire District.
- 2      Right-of-way requirements for circular turn-arounds may be reduced provided if:
  - A.      Access is provided to twelve (12) dwelling units or less;
  - B.      Sufficient dimension is provided to insure adequate space for utilities; and
  - C.      A minimum right-of-way width of forty (40) feet may be provided.
- 3      "Y"- or "T"-shaped turn-arounds should not be used but may be allowed provided:
  - A.      Access is provided to twenty (20) dwelling units or less;
  - B.      Distance between the ends of the arms shall not be less than eighty (80) feet nor greater than six hundred (600) feet as measured along the centerlines of the arms;
  - C.      Minimum pavement width in the arms will be twenty (20) feet; and
  - D.      Property lines at the intersection of the arms and the access street will be rounded to a radius of twenty (20) feet.

**12E-207      MINOR STREETS**

Minor streets shall be constructed as paved streets. A minimum paving width of twenty (20) feet for the surface course with a base course width of twenty-one (21) feet is required for streets with open roadside drainage ditches.

**12E-208      COLLECTOR STREETS**

Collector streets shall be constructed as paved streets. A minimum of sixty (60) feet in width is required for right-of-way. A minimum paving width of twenty-four (24) feet for the surface course with a twenty-five (25)-foot wide base course is required for streets with open roadside drainage ditches.

**12E-209      ARTERIAL STREETS**

Arterial streets shall be constructed as paved streets. A minimum lane width of twelve (12) feet for each of four lanes. Arterials may be divided or undivided.

**12E-210      STREET INTERSECTION LAYOUT**

Street intersections must satisfy the following regulations:

- 1      Street intersections shall not include more than four (4) street approaches.
- 2      Streets shall be laid out to intersect at right angles.
- 3      Sight distance easements shall be shown and dedicated on the record maps of the development providing a triangular area formed by joining points measured 30 feet distance along the property line from the extended intersection of the street right-of-way lines. Within this triangle there shall be no sight obscuring or partially sight obscuring wall fence sign or foliage higher than two (2) feet above curb grade.
- 4      In the case of trees, there shall be no foliage lower than six (6) feet above curb grade. Vertical measurement shall be made from the top of the nearest curb or, if no curb exists, from the edge of the nearest traveled roadway finish-grade surface.
- 5      Use of "T" intersections is recommended.

- 6 Offsets of local streets shall have a minimum of 125 feet between centerlines.
- 7 Offsets of collector streets shall be increased as required by the Planning Director upon concurrence by the Director of Public Works to allow left-turn storage between intersections.

**12E-211**      **OTHER STREETS**

- 1 Alleyways.
  - A. Alleyways will be permitted only in commercial and multi-family developments. In these developments it is not a requirement of the Town of Kiawah Island that alleyways meet the requirements of roads constructed to the Town of Kiawah Island standards. However, all requirements pertaining to drainage shall be strictly observed.
  - B. A right-of-way width of at least twenty (20) feet shall be provided and a paved roadway width of at least sixteen (16) feet for all alleyways with one-way traffic shall be constructed. Additional right-of-way or adjacent easements shall be provided as needed for utilities.
  - C. Alleyways with two-way traffic shall have minimum twenty (20) foot wide paved roadways with twenty-four (24) feet minimum right-of-way.
  - D. Minimum pavement section shall conform to pavement standards for adjacent roadway areas within the development. The Town of Kiawah Island will not construct or maintain alleyways.

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- 2 Causeways.
- A. Roads to be constructed on causeways shall meet all of the requirements contained within this Ordinance, including:
- (7) Minimum street centerline elevation at finish grade shall be six and one-half (6.5) feet above mean sea level;
  - (8) Minimum earthen side slopes shall be 2:1, unless a bulkhead or other means of reinforced slope stabilization is utilized;
  - (9) Streets or roads constructed on causeways shall maintain the pavement cross section of the approaching roadway; and
  - (10) Guard rails and/or shoulders shall meet the requirements of the South Carolina Department of Highways and Public Transportation, the Institute of Transportation Engineers, or AASHTO, whichever is applicable.

## **12E-212 BRIDGES**

- 1 Vehicular bridges shall be designed to accommodate an AASHTO HS 20 loading.
- 2 The roadway across bridges shall meet the requirements of AASHTO "Standard Specifications for Highway Bridges", 1990.
- 3 Railings shall meet the requirements of Section 2.7 of AASHTO "Standards for Highway Bridges."
- 4 All vehicular bridges shall have a minimum width of twenty (20) feet of pavement (inside of curb to inside of curb), except that the following six (6) bridges may have a minimum width of eighteen (18) feet of pavement (inside of curb to inside of curb), as identified by South Carolina Coastal Council permit numbers, location, length and maximum allowable number of dwelling units which may be served by each bridge:
- A. CC-81-212 to Three Loons Island  
(1 bridge 675 feet, 14 dwelling units);
  - B. CC-82-029 to Eagle Point  
(1 bridge 455 feet, 13 dwelling units);
  - C. CC-82-029 to a small island (1 bridge 235 feet, 4 dwelling units);

- D. CC-82-029 to Cormorant Island (1 bridge 295 feet, 7 dwelling units);
- E. CC-89-108 to Terrapin Island  
(1 bridge 390 feet, 15 dwelling units); and
- F. CC-91-272 to Willet Pond Island  
(1 bridge 165 feet, 5 dwelling units).

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## CHAPTER 3. ROADWAY DESIGN

### 12E-301 INTRODUCTION

This section, in conjunction with Article 12F, is intended to provide guidelines for the design of roadway pavement and roadway drainage, and for construction work that is to be done within the right-of-way.

### 12E-302 STREET SURFACE STANDARDS

#### 1 Pavement Section for Residential Streets.

The standard pavement section for residential streets is a minimum 6-inch compacted base course meeting the SCDOT specification 300 for Bases and Subbases, with a prime coat meeting SCDOT specifications for the particular base material and Section 406.16, and with 1½ inches minimum compacted depth of hot laid asphaltic concrete surface course meeting SCDOT specification 403, types one and two.

#### 2 Pavement Section for Collector, Industrial and Commercial Streets.

The standard pavement section for residential streets is a minimum 6-inch compacted base course meeting the SCDOT specification 300 for Bases and Subbases, with a prime coat meeting SCDOT specifications for the particular base material and Section 406.16, and with 2 inches minimum compacted depth of hot laid asphaltic concrete surface course meeting SCDOT specification 403, types one and two.

#### 3 Alternative Pavement Designs.

The Town of Kiawah Island will consider alternate pavement designs. The design professional should present appropriate design data, including laboratory tests of foundation soils.

### 12E-303 CLEARING AND GRUBBING

- 1 All streets and roadways shall be cleared a sufficient width to allow the installation of pavement, drainage, and all utilities. Care shall be exercised to minimize the clearing width and damage to remaining vegetation. Clearing shall include the removal and disposal of all trees, stumps, brush, rubbish, roots and other objectionable materials.

- 2 All streets and roadways shall be cleared and grubbed for a width extending out to a minimum of five (5) feet in back of the curb or edge of paving plus a sufficient width to accommodate all utilities, with clearance in accordance with all applicable codes and with the exception of specimen trees. Specimen trees may be left closer than five (5) feet from the roadway. In such cases, however, the Planning Director of Kiawah Island, South Carolina, shall determine appropriate safety measures which may include, but not be limited to, roadbed/roadside reflectors and/or posted speed limits lower than 25 mph, provided the Sheriff of Charleston County concurs with such speed limits.
- 3 Where there are unpaved islands within the street, the right-of-way shall be cleared for a width extending out to five (5) feet in back of the curb. If there is no curb, and drainage is towards the Island, clearing and grubbing limits shall be extended no less than to the top of the slope on the backside of the roadside swale ditch.
- 4 On streets constructed using concrete curb and gutters, selected healthy specimen trees of aesthetic value being firmly rooted with the natural ground elevation at the base of the tree being approximately the same as that of the curb or edge of pavement will be permitted to remain within the right-of-way but should be separated from the roadway by a minimum of five (5) feet wherever possible. New trees (trees to be or being, planted) whose centers are at least six (6) feet from the back of the curb will be permitted to remain.
- 5 Selected healthy specimen trees of aesthetic value being firmly rooted, with the natural ground elevation at the base of the tree being approximately the same as that of the finished grade or where a meandering pavement within a minimum 50-foot right-of-way is used, selected healthy specimen trees may be left within the area between the edge of pavement and the right-of-way line or within an island.
- 6 Drainage easements shall be selectively cleared to a minimum width for construction and continued maintenance of the storm drainage infrastructure.

#### **12E-304 GRADING**

- 1 Streets shall be graded to the designed typical section in accordance with the approved plan and profile. Grade stakes shall be set on centerline at intervals of not more than 100 feet on straight grades and not more than fifty (50) feet on vertical curves. Additional grade stakes, as necessary, must be provided to ensure that the final grade matches the designed typical system.

- 2 Grading work, materials, methods and equipment, unless specifically stated otherwise herein, shall be in accordance with the requirements of the South Carolina State Highway Department's Standard Specifications for Highway Construction.

**12E-305**      **SUBGRADE**

- 1 Construction and preparation of the subgrade includes that part of the roadway intended to receive the base course, pavement, sidewalk, curb, curb and gutter and/or shoulder.
- 2 Streets shall be graded to the designed typical section in accordance with the approved plan and profile, and shall be free of roots, trash and other objectionable materials for a depth of eighteen (18) inches below finished subgrade.
- 3 A suitable soil for a minimum depth of eighteen (18) inches immediately below subgrade is required. Where necessary, a stabilizing type soil shall be added and properly mixed with the soil in place for a depth of not less than six (6) inches.
- 4 When unstable material is encountered and it is necessary to perform mucking-out work, the roadway shall be mucked-out for its entire width, ditch line to ditch line (or extending out two (2) feet in back or curbs), shall be backfilled with a suitable, stable type soil and shall be properly compacted.
- 5 All objectionable loose rock or boulders shall be removed or broken off to a depth of not less than six (6) inches below the surface of the subgrade.
- 6 The subgrade may be thoroughly wetted and shall be compacted for a width extending two (2) feet outside the edges of the proposed pavement before the base course is placed.
- 7 The subgrade, from a distance of twenty-four (24) inches outside of the area to be occupied by the pavement or curb and gutter, shall be compacted to not less than 95% of maximum density. The compaction shall be accomplished by using suitable construction procedures when the subgrade is at a suitable construction moisture content. The subgrade may be wet by sprinkling to secure proper compaction. Maximum densities will be determined by ASTM D 1557 Method A.
- 8 The subgrade shall be maintained in a smooth and compacted condition, free from ruts and depressions, and shall be adequately drained. In no case shall any base, surface course or pavement be placed on a frozen, muddy or unstable subgrade.



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Storing or stockpiling of materials directly on the subgrade will not be permitted except with the approval of the Director of Public Works.

- 9 No base or surfacing materials shall be placed before the subgrade is checked and approved by the Director of Public Works.
- 10 In general, soils classified lower than "SC" according to the Unified Soil Classification System are not acceptable for the upper 18 inches of the subgrade.
- 11 The compacted subgrade shall be proof-rolled prior to placement of any base or surfacing materials. Testing shall be performed in the presence of the Director of Public Works or his assigned representative. The Director of Public Works shall have the cooperation and assistance of the developer, his design professional, his contractor and/or any other representatives. Testing procedure shall consist of running a loaded tandem truck (10 cubic yards minimum; load capacity 20-35 ton minimum total weight) or other equivalent vehicle as determined appropriate by the Director of Public Works at slow-walking speed longitudinally along the length of the area to be tested a sufficient number of passes that all of the surface area has had coverage of one pass of the vehicle's testing wheels (heaviest axle) per two foot width of roadway. Any areas exhibiting pumping or breaking of the surface shall be stabilized and re-tested until it meets approval of the Director of Public Works. Failing that, the unsuitable material shall be removed to appropriate depth and replaced with suitable material, re-compacted and re-tested.

## 12E-306

### SOIL TESTING

- 1 The quality of foundation soils will be determined by the Director of Public Works by visual observations, unless adequate soil tests are presented by the design professional. Without such testing being provided, the Director of Public Works will utilize judgment and experience to determine the quality of the foundation material, and shall require appropriate action including but not limited to undercutting or mucking-out, and replacing the excavated material with suitable earth materials or increased stone base. The decision of the Director of Public Works shall be final unless laboratory testing demonstrating satisfactory soil strength is provided.
- 2 Soil testing shall be performed by an independent testing laboratory approved by the Director of Public Works. The testing program shall be presented to and approved by the Director of Public Works prior to the beginning of the testing. The testing program shall show the number and approximate location of borings, depth of sampling, and type of tests to be made. Ample notice of testing schedules shall be given to the Director of Public Works. All sampling and testing shall be done in the

presence of the Director of Public Works and a copy of all results including recommendations shall be presented to the Director of Public Works immediately upon completion of the tests.

- 3 For preliminary site evaluation, the testing program may establish levels or degrees of testing including, but not limited to, tests for determination of general soil classifications and water table data. For the design of pavement the testing program shall include, but is not limited to the determination of the maximum elevation of the ground water table, the soil classification according to the Unified Soil Classification System (laboratory test determination), and the California Bearing Ration (CBR) (laboratory test determination utilizing 96 hour saturation). Proctor testing for determination of optimum moisture and maximum density using the modified Proctor-Test ASTM D 1557 Method A, and field moisture and density tests may be required by the Director of Public Works.

#### **12E-307**

#### **ROADWAY DRAINAGE DESIGN**

- 1 Roadways within open roadside swale ditches.
  - A. Roadside swale ditches shall be graded as shown, per Article 12F. The drainage plan shall show the drainage basin areas contributing storm water runoff to the roadside ditches. Roadside swale drainage ditches and driveway pipes shall be designed for a ten (10) year Average Return Frequency. Cross-drains, outfall ditches and piped systems shall be designed for a ten (10) year Average Return Frequency. Roadside swale ditch invert elevations shall be a minimum of twelve (12) inches below grade, and no greater than twenty-four (24) inches below the corresponding centerline street finish grade elevation. Longitudinal grades for roadside swale ditches shall be no less than 0.3% nominal grade. Outfall ditches leading to or from streets shall be piped from the lot depth or 150 feet, whichever is lesser, except where prohibited by regulatory agencies. Drainage shall not be carried in roadside ditches for a distance exceeding 700 lineal feet (accumulated distance) excepting as approved by the Director of Public Works. Additionally, drainage outfalls to wetland areas will be piped for a minimum length of up to twenty (20) feet except where prohibited by regulatory agencies. A minimum twelve (12) inch diameter pipe shall be used under driveways.
  - B. Design requirements for drainage design of roadways with open roadside swale ditches shall conform also to requirements of Chapter 4.

- C. Roadside swales may be reduced to eight (8) inches below the corresponding center line of the road if the following conditions are met.
- (11) A perforated drain will run along the entire length of the ditch between catch basins. The invert of the pipe will be twelve (12) inches below the ditch invert.
  - (12) The top of all driveways must match the invert of the ditch. The back slope of the ditch may be regraded to reduce the driveway slope. A joint will be installed in the driveway along the invert of the ditch.
- D. No sodding or landscaping will block the flow of water from the street or along the ditch.
2. Roadways with concrete curb and gutter.

Roadways with concrete curb and gutter shall conform to the details in Article 12F. Curb inlet structures shall be located so that drainage shall not be carried in gutters for a distance exceeding 500 feet accumulated distance. Culvert piping shall not be located longitudinally with the street under the pavement or curb and gutter. An exception may be made to save trees within the right-of-way.

**12E-308****SUBSURFACE DRAINAGE**

1. Where pipe underdrains are required, they shall be installed two and one-half (2 1/2) feet in back of the curb and shall be properly connected to a permanent type drainage outlet, such as a catch basin, junction box or a manhole.
2. Pipe under drains (invert) shall be a minimum of twenty-four (24) inches below the bottom of the curb.
3. Suitable outlets for the pipe underdrains at the required elevation shall be provided in the design of the drainage system.
4. Pipe underdrains shall be installed on curb and gutter streets only at low points in grade on both sides of the streets for a minimum distance of 100 feet in each direction along the street, except at locations where the design engineer can present evidence to the satisfaction of the Director of Public Works that the water table shall not be within twenty-four (24) inches of centerline subgrade elevation during extended periods of rainfall.

- 5 Pipe underdrains shall be installed for a minimum distance of ten (10) feet in each direction along the street at all curb inlets for the purpose of draining the subgrade prior to paving, except where alternate drainage inlet is approved by the Director of Public Works.
- 6 Pipe underdrains where required shall be installed after the concrete curb has been constructed and before the base course is placed.
- 7 Pipe underdrains shall be placed in other locations as determined by the design professional or as required by the Director of Public Works during construction.
- 8 Pipe underdrains shall be properly laid on grade and in accordance with these specifications and the South Carolina State Highway Department Standard Specification for Highway Construction, and shall not be covered over until after they have been inspected and approved by the Director of Public Works.

**12E-309****PAVEMENT BASE, PRIME AND SURFACE COURSES**

- 1 The base course shall meet SCDOT specification Section 300 for bases and subbases.
- 2 The width of the base course shall be twelve (12) inches greater than the width of the surface course six (6) inches on either side of the roadway on roadways without curb and gutter.
- 3 The compacted depth of the S.A.B.C. shall be six inches or greater as approved by the Director of Public Works.
- 4 After the S.A.B.C. has been properly blended, mixed, wetted, shaped and compacted to the approved typical section and has been seasoned sufficiently and proof-rolled, the prime coat shall be applied. Proof-rolling shall be accomplished as described in Section 3.05 for the proof-rolling of the subgrade excepting that minimum total weight of testing vehicle shall be in the 30-35 ton range.
- 5 The prime SCDOT coat material, placement and protection shall meet the requirements of the specifications Sections 305 or 306 and 406. The quantity of the material placed shall be determined by the Director of Public Works and, in general, shall be 0.05-0.15 gallons per square yard.
- 6 The surface paving course shall be applied no less than four (4) days and no more than seven (7) days after application of the prime coat, except as approved by the Director of Public Works.

7. The surface course material, placement and protection shall meet the requirements of the SCDOT specifications, Sections 401 and 403, Types one and two.
8. The compacted depth of the surface course shall be one and one-half (1½) inches or greater as approved by the Director of Public Works.
9. Bituminous material shall not be applied on a wet surface, or when the temperature is below sixty (60) degrees Fahrenheit in the shade and falling or below fifty-five (55) degrees Fahrenheit in the shade and rising, or when weather conditions are otherwise unfavorable.

**12E-310 SOIL EROSION AND SEDIMENT CONTROL**

1. In general, the street and stormwater system shall be designed, constructed and maintained in such a manner that will prohibit the movement of soil from the development site as required by the South Carolina Sediment and Erosion Control Act.
2. The design professional shall prepare appropriate designs and show sufficient data, including material lists and details and time schedules, to ensure that the soils will be retained on-site.
3. The developer shall be responsible to see that the design engineer's designs are constructed in a timely manner and maintained throughout the length of the construction period of the development. Should sediment be carried downstream through faulty design, construction, maintenance, by accident or by an unusually damaging storm, the developer shall be responsible to ensure that the eroded soil is removed from the downstream properties.
4. As a guide, the developer will follow the current edition of the Manual of Erosion and Sediment Control Practice for Developing Areas by the S.C. Land Resources Conservation Commission.

**12E-311 UTILITIES WITHIN THE STREET RIGHT-OF-WAY**

1. The proposed location of all underground main utility lines including water, sanitary sewer, gas, electrical, telephone or television cables shall be shown on the street plan and profile submitted to the Director of Public Works for approval, and shall be in accordance with all applicable codes.
2. Utility lines shall be located so that they will not interfere with the proper functioning of the drainage system. In curb and gutter sections, underground utility main lines shall be a minimum of five (5) feet in back of the curb. On streets where the swale ditch section is used, utility main lines shall be installed not less than fifteen (15) feet from the center line of the street and not less than five (5) feet from the edge of the pavement.
3. No work on utility lines within the limits of the street right-of-ways shall be commenced until the construction plans showing the proposed location of the utility lines have been approved by the Director of Public Works or a utility permit has been issued by KICA.
4. Ditches and trenches dug within the street right-of-ways for utilities and/or other purposes shall be properly backfilled. All backfill material under paved surfaces shall be select material and shall be mechanically compacted in 6 inch layers. Backfill material shall be mixed or wetted as required by the Director of Public Works. Areas to be paved or areas within five (5) feet of pavement shall be compacted to no less than 95% of maximum density. Remaining areas shall be compacted to 90% of the maximum density. Maximum densities will be determined by ASTM D 1557 Method A.
5. The jetting or uncontrolled tunneling of utility lines under a paved street is not permitted.
6. Any proposed street lighting facilities shall be shown on the street construction plans submitted to the Director of Public Works for approval.
7. Electrical distribution (defined for the purpose of these regulations as facilities for delivering electrical energy from a substation to a customer's meter and associated with voltages in the 14-35 KV range and below), telephone and any other wired installation shall be installed underground unless unfeasibility of such installation has been documented and the documentation accepted as satisfactory by the Director of Public Works.

**12E-312      TRAFFIC CONTROL SIGNS AND STREET NAME SIGNS**

All traffic control signs and street name signs shall be installed as part of the development project at no cost to the Town. The design professional shall indicate on the construction plans and specifications the location and type of signs to be installed. All signs shall conform to the requirements of the Kiawah Island Graphic Controls, and shall be approved by the Kiawah Island Architectural Review Board.

**12E-313      CONCRETE CURB AND GUTTER**

Either the upright curb and gutter or the roll curb and gutter may be used (see Article 12F). The minimum width for the curb and gutter shall be two (2) feet. The maximum distance between expansion joints shall be fifty (50) feet. All work, materials, methods and equipment, unless specifically specified otherwise herein, shall be in accordance with the requirements of the South Carolina State Highway Department's Standard Specifications for Highway Construction, current edition.

**12E-314      CONCRETE CURB**

See typical sections shown in Article 12F. All work, materials, methods and equipment, unless otherwise specified herein, shall be in accordance with the requirements of the South Carolina State Highway Department's Standard Specifications for Highway Construction, current edition.

**12E-315      CONCRETE SIDEWALK**

Concrete sidewalks shall have a minimum thickness of four (4) inches except at driveways where the minimum thickness shall be six (6) inches. Transverse expansion joints shall be placed at intervals of not more than fifty (50) feet. The minimum width for sidewalks shall be four and one-half (4 1/2) feet. All work, materials, methods and equipment, unless specified otherwise herein, shall be in accordance with the South Carolina State Highway Department's Standard Specifications for Highway Construction.

**12E-316      SITE CLEANUP AND FINISH GRADING**

Prior to acceptance of the street and drainage systems, the right-of-way and drainage easement areas shall be cleared of all trash and debris remaining from the construction of those areas. The property within the development shall be filled and/or graded as required by the Director of Public Works to ensure that the entire development will drain satisfactorily. All areas within the right-of-way and drainage easement access shall conform to the lines and grades shown on the construction plans or as approved by the Director of Public Works.

**12E-317      LANDSCAPING AND PLANTING**

Plants, shrubbery and selected plants of such size of type creating problems with maintenance or problems with sight distances will not be permitted.

**12E-318      SEEDING AND MULCHING**

1. All unpaved areas within the right-of-way and/or drainage easement areas shall be seeded and mulched. The design professional shall show appropriate data including schedules of planting times, quantities of materials for seeding, fertilizing, mulching and reseeding schedules including seed types for winter and/or summer planting.
2. The developer shall be responsible for maintenance of such seeded and mulched areas until the street and/or drainage system is transferred to the KICA, Inc. or other responsible entity.



**12E-319**      **DRIVEWAY ENTRANCES**

1. Driveway entrances for subdivision lots shall be shown on the construction plans, and constructed as part of the development if upright curb and gutter is utilized. Later determination of driveway locations can be made for streets utilizing roll type curb and gutter and for streets utilizing open roadside ditch drainage systems. All driveway locations and curb cuts shall be in compliance with the Town of Kiawah Island Zoning Ordinance.
2. No driveway approach or other improvement within the right-of-way constructed or shown to be constructed on construction plans approved by the Town of Kiawah Island shall be relocated or its dimensions changed without the approval of the Public Works Director and Planning Director.

**12E-320**      **SUBDIVISION ENTRANCE SIGNS WITHIN THE RIGHT-OF-WAY**

1. Subdivision name signs at entrances to developments shall be in compliance with the Kiawah Island Graphic Controls and approved by the Kiawah Island Architectural Review Board. Such signs may be approved provided such signs meet the requirements of the Town of Kiawah Island Zoning Ordinance. Zoning permits must be obtained prior to installation of such entrance signs.
2. Entrance signs, foundations for future signs and conduit for electrification of signs shall be shown on the construction plans. Approval of the plans by the Director of Public Works does not imply or guarantee approval by the Planning Director.

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## CHAPTER 4. STORMWATER DRAINAGE FACILITIES

### 12E-401      INTRODUCTION

This section, in conjunction with Article 12F, is intended to provide guidelines for the design and construction of stormwater drainage facilities for subdivision developments, and is supplemental to requirements of the DHEC Office of Ocean and Coastal Resource Management and the South Carolina Water Resources Commission.

### 12E-402      STORMWATER MANAGEMENT

1. Stormwater Management as applicable to the design professional for subdivision developments involves the design and construction of facilities that will function effectively to control and abate the impact of storm drainage runoff.
2. The design professional among other obligations, is responsible for the accumulation of accurate data regarding the drainage basins, for the determination of stormwater runoff quantities, and for the design of any facilities determined necessary by the Director of Public Works for the control, containment and/or transportation of anticipated stormwater runoff.

### 12E-403      GENERAL REQUIREMENTS FOR DESIGN OF DRAINAGE SYSTEMS

The design of drainage facilities for a particular tract of land must be done with consideration for the entire drainage basin directly effected by this tract. Provisions must be made to receive and handle runoff from any upstream areas that naturally drain through any portion of the subject tract. Provisions must be made for the discharge of any runoff from this subject tract through an acceptable outlet. In one drainage basin, acceptable outlet(s) must be provided for the discharge of runoff. The current zoning of upstream properties shall be used in determining design runoff rates and quantities.

### 12E-404      GENERAL REQUIREMENTS FOR DRAINAGE DISCHARGE OUTLETS

1. All street and development drainage shall be discharged into either:
  - A. An appropriate tidal stream at the South Carolina Coastal Council Critical Line;

- B. An appropriate running stream with continuous flow (fresh water creek or river);
  - C. An appropriate existing drainageway (pipe, ditch or canal) for which there are adequate easements, which is of adequate size, and which is maintained by KICA, Inc. or other responsible entity; or
  - D. An appropriate wetland area designated by the Town of Kiawah Island as acceptable to receive the subject discharge.
- 2. The outlet must be of sufficient size and grade to receive the anticipated quantity of runoff from any contributing drainage basin along the route of the outlet in addition to the anticipated increase in quantity of runoff from the subject tract.
  - 3. Where the proposed outlet ends at or near the South Carolina Coastal Council Critical Line, the construction plans shall clearly show that there is an outlet of adequate size and slope all the way to elevation MLW.
  - 4. The entire outlet from source(s) of collection of runoff to final point of discharge shall be upgraded as is considered necessary by the Director of Public Works and at no cost to the Town of Kiawah Island.

**12E-405****GENERAL DESIGN REQUIREMENTS FOR STORMWATER RUNOFF**

- 1. Design Methods and Criteria.

The design engineer may use any of the generally accepted design procedures to determine the runoff quantities. The Modified Rational Method or the Modified Soil Conservation Service method will be used by the Town of Kiawah Island Public Works Department in making the review of the designs. The design engineer shall submit data showing the drainage basin, the location of areas of differential imperviousness, the runoff factors for each zone of imperviousness, and the data for rainfall and time factors used in the determination of peak runoff rates. The design should be prepared assuming relatively saturated soil conditions. The design must take into consideration the channelization of the runoff.

2. Rainfall Determination.

The peak runoff rates shall be made based on the storm time/rainfall rate following a pattern Type III Rainfall Hydrograph as defined in the Soil Conservation Service Manual TR-55. The design recurrence interval shall be taken to be ten (10) years for the collection system within the subject development, twenty-five (25) years for any channelized drainage flowing through the development and twenty-five (25) years for any primary outfall drainageway from the development.

**12E-406 EASEMENTS FOR STORM DRAINAGE FACILITIES**

1. Drainage easements shall be provided for all drainage facilities. The easement shall provide adequate space for access to the facility; adequate space for the operations involved in cleaning, repairing, re-constructing and hauling materials to or from the area; adequate space for turning and maneuvering of the equipment; and adequate space for the sloshing and splashing of the materials being handled.
2. The portions of the easement within which the equipment is to operate shall be established to provide suitable foundation to support the equipment to be used in the maintenance operations and shall be graded to provide drainage from the working area but not graded to slopes or elevations causing difficulty in the operations of the maintenance equipment. Maximum lateral grade for areas in which draglines may be used in the maintenance operations shall be five (5) percent.
3. Minimum drainage easement widths for piped drainageways shall be no less than that shown as follows:

<u>Pipe Size</u> <u>(Maximum)</u>	<u>Minimum</u> <u>Depth</u> <u>to Invert</u>	<u>Width of</u> <u>Drainage</u> <u>Easement</u>
18"	3.5'	12'
24"	5.0'	16'
42"	7.0'	20'
54"	7.0'	24'
72"	9.0'	30'

4. For depths greater than shown, larger pipe sizes, or multiple lines of pipe, additional easement width, as required by the Director of Public Works, shall be provided.

Required drainage easement widths for open ditches shall be shown on detail drawings, similar to Article 12F.

**12E-407 FINISH GRADING, SEEDING, MULCHING AND SOIL EROSION AND SEDIMENT CONTROL**

Drainage easement areas shall be seeded and mulched in accordance with the requirements of Section 12E-318.

**12E-408 OPEN CHANNEL BAFFLES**

1. Baffles of an approved design shall be constructed in open channels where the gradient is 0.70% or greater and shall be spaced as shown:

<u>Gradient</u>	<u>Spacing</u>
0.70% to 0.99%	100' (Max)
1.00% to 1.49%	75' (Max)
1.50% to 1.99%	50' (Max)
2.00% to 3.00%	50' (Max)

2. Where the gradient is 2.00% or greater for an open channel, additional easement width, equal to the maximum depth of the channel shall be provided. For a gradient greater than 3.00%, the channel shall be piped except as approved by the Director of Public Works.

**12E-409 DRAINAGE AND EROSION CONTROL STRUCTURES AND MATERIALS**

1. All work materials, methods and equipment, unless otherwise specified herein, shall be in accordance with the requirements of the South Carolina Department of Highways and Public Transportation Standard Specifications for Highway Construction.
2. All concrete pipes shall conform to A.S.T.M. Specifications C-76, Class III, Wall BN. Joints shall conform to A.S.T.M., C-443. Jointing materials shall be all-weather preformed joint sealant as approved by the Director of Public Works.
3. All corrugated metal pipe (steel) shall be fully bituminous coated. If metal pipe is to be subjected to a flow of salt water, it shall also be fiber bonded as approved by the

Director of Public Works. Ends of metal pipe and bands shall be annular corrugated (circular, not helical). O-ring gaskets shall be installed with bands.

4. Perforated and non-perforated corrugated polyethylene pipe meeting the requirements of AASHTO M-294 and corrugated aluminum pipe meeting the requirements of AASHTO M-196 will be allowed.
5. Other piping materials will be given consideration. Specifications should be submitted to the Director of Public Works along with the design data and construction plans showing the specific intended use.
6. Ample cover shall be provided to properly protect the pipelines during the time of construction as well as for the designed usage. Minimum allowable cover shall be in accordance with the pipe manufacturers requirements and shall be approved by the Director of Public Works.
7. All structures shall be shown clearly on the construction plans with details to show clearly all lines, grades, elevations, joints, reinforcing, materials of construction, etc. All appropriate specification data shall be shown on the construction plans.
8. Driveway drainage pipes shall be a minimum of twelve (12) inches in diameter and constructed of reinforced concrete.

#### **12E-410 MISCELLANEOUS DRAINAGE REQUIREMENTS**

1. Pipeline discharge capacity shall exceed maximum peak run-off rate. Computations for all drainageway size determination shall be provided to the Director of Public Works.
2. Drainageways located laterally with the street shall be piped to the back lot line or for the first 150 feet from the street right-of-way line except where prohibited by regulatory agencies.
3. Where a drainage outlet pipe extends into a lake or other similar outlet, rip-rap shall be placed under and around the end joint or joints of pipe as needed and on slopes at end of pipe, or timber bents shall be used to support the end joints, and rip-rap shall be placed as required.
4. Water elevation in lakes shall be not less than three (3) feet below the elevation of the streets in the general area. Where lakes encroach on the street right-of-way, barriers in accordance with AASHTO requirements shall be provided. Proposed maximum water

elevations for lakes shall be shown on the drainage plans and on the final subdivision plat.

5. Where drainage is taken into an existing ditch or canal or into a tidal stream by use of an open ditch or pipeline, the elevation at the bottom of the existing ditch, canal or tidal stream at the point of entry and approximately 100 feet upstream and downstream, and the elevation of the bottom of the inlet ditch or invert elevation of inlet pipe at the outlet end, shall be shown on the drainage plans. Also, the bottom width of the existing canal or tidal stream shall be shown.
6. Where drainageways are piped, catch basins shall be provided as required to appropriately receive and discharge incoming drainage. In no case shall the catch basins be more than 300 feet apart.
7. Junction boxes with a minimum of eight foot stubs shall be constructed at both ends of crossline pipe for cross-ditches, at outlet end of crossline pipe at outlet ditches, and at other locations. Reinforced concrete pipe of the required size shall be used for all inlet and outlet stubs. Stub pipes of the required size shall be used to take the street ditch drainage into the junction boxes and the inlet invert of the stub shall normally be installed approximately three-tenths (0.3) feet below the street ditch grade.
8. Catch basins or junction boxes shall not be located within the radius portion of street intersections. No manhole covers or water valves shall be located within the curb or gutter area or within the paved area of the roadway.
9. Where a drainage outlet pipe discharges at any elevation higher than the bottom of the ditch into which it discharges, a junction box with a stub-out piping shall be constructed.
10. Catch basins shall be constructed to receive drainage from gutters and to discharge the drainage into a pipeline or into an open ditch.
11. In a curb and gutter section, when the drainage is taken to the extremity of the stub street into an open ditch or into a crossline pipe, catch basins shall be constructed on each side of the street and a temporary asphalt roll curb approximately four (4) inches in height shall be constructed across the end of the stub pavement. In a ditch section, when the drainage is taken to the extremity of the stub street and discharged into an open ditch or crossline pipe, a junction box with stubs shall be constructed on each side of the street.
12. For minor swale ditches along lot lines draining a small areas where street drainage is not involved, a drainage easement not less than fifteen (15) feet in width shall be dedicated.

13. Two (2) feet minimum horizontal clearance between pipelines or structures shall be provided for backfill and compaction operations.
14. Reinforced concrete or rip-rap of a material and gradation approved by the Director of Public Works shall be placed at all ends of culverts, bends or junction points in drainageways and/or other locations as determined by the Director of Public Works.
15. Drainage on curb and gutter streets located on causeways may be discharged from the street via a flume or a spillway box.
16. In order to cause minimal impact on the development of peninsulas on which there is no more than one lot between the street and the SCCC Critical Line, special consideration will be given to the drainage of streets and lots. In lieu of piped drainage system, drainage may be accommodated by the use of sheet flow and minor swales across lots. The peninsulas will be reviewed on a case by case basis by the director of Public Works.



## ARTICLE 12F, ROAD CODE APPENDIX

### STANDARD CONSTRUCTION DETAILS

This is a guideline for the preparation of cross-sections, construction details and miscellaneous pictorial data required for the completion of construction plans and specifications for road and drainage systems intended to be included in the maintenance systems of the Town of Kiawah Island.

These detail drawings are generally representative of the standards required by the Town, though the design engineer is responsible for the preparation and acceptability of detail drawings indicating the development project. The following construction details are provided to assist compliance with these regulations:

1. Typical Section for Roadway with Open Roadside Drainage Swale
2. Typical Section for Roadway with Concrete Curb and Gutter
3. Typical Section for Roadway with Median Island
4. Typical Section for Roadway with Inverted Crown
5. Typical Section for Alley with Inverted Crown
6. Pavement Cut for Installation of Utilities
7. Typical Street Intersection - Plan View
8. Typical Cul-de-sac-Plan View
9. Typical Section - Concrete Curb and Gutter
10. Concrete Gutter at Street Intersection - Plan View
11. Concrete Gutter at Street Intersections - Reinforcing Details
12. Details for Masonry Curb Inlet Drainage Structure
13. Details for Masonry Junction Box
14. Details for Grate Type Yard Inlet
15. Details for Type Nine Yard Inlet

16. Pre-Cast Concrete Storm Drainage Manhole
17. Typical Section - Swale Type Ditch
18. Pipe Outlet to Ditch with Concrete Slab
19. Pipe Outlet to Ditch with Rip-Rap
20. Rip-Rap Details at End of Pipe
21. Rip-Rap Details at Intersection of Ditches
22. Rip-Rap Details at Bend in Ditch
23. Typical Detail for Island within Earth Roadway
24. Typical Section for Island within Earth Roadway
25. Curb Inlet
26. Subgrade Drain
27. Feathering of Curb and Gutter
28. Typical Exfiltration Pipe Detail
29. "T" Cul-de-sac
30. Roadway without Curb and Gutter (with Crown Section)
31. Pitched Roadway without Curb and Gutter
32. Typical Section for Roadway without Curb and Gutter (with Crown Section)
33. Typical Section for Pitched Roadway without Curb and Gutter

**12A-219 DOCK KEY LOCATIONS**

## Purpose and Intent:

Kiawah Island is bordered by the Atlantic Ocean on the south, and the Kiawah and Stono Rivers on the north and east, respectively. Creeks, streams and marsh are also an integral part of the Island's ecosystem.

Key Locations are specific shoreline and marsh sites where floating and fixed docks are permitted to be constructed. The purpose and intent of this Key Location zoning is to strictly control location and installation of all docks, floating and fixed, so as to prevent their uncontrolled proliferation along the Island's river and stream frontage.

## 1. Dock Locations and Design Criteria.

Permitted dock locations and general design criteria are as follows:

- A. The "Town of Kiawah Island Key Locations Map," dated April 1, 2003, shows all sites where authorized docks currently exist or may be permitted to exist in the future. Table 2M, "Town of Kiawah Island Key Locations Floating Docks", and Table 2N, "Town of Kiawah Island Key Locations Fixed Docks", both dated April 1, 2003, provide detailed information as to current and future docks. These are the Town's official zoning documents and are kept at the Town's municipal offices.

The maps and the tables show and detail the specific locations of installed docks on developed lots by identifying lot number and dock type. For property not yet platted, linear footage of shoreline is shown where construction of future docks may be authorized.

In addition to these official documents, the Town will catalog new docks as they are installed at undeveloped Key Locations. This information will be periodically incorporated into the official Key Locations map.

- B. Two basic types of docks are authorized using alphanumeric coding. Authorized dock sites identified by letters (i.e., "A", "F", "AA", etc.) are pre-designated to be "Fixed Docks". These are generally intended for fishing and crabbing and have no movable parts to them. Authorized dock sites identified by numerals (i.e., "3", "12", "21", etc.) are pre-designated to be "Floating Docks". These normally have a separate floating pontoon or platform attached to them, which rises and falls with the tides. Floating Docks are suitable for mooring small watercraft.
- C. The "Town of Kiawah Island Key Locations Map" and the two Town of Kiawah Island Key Locations tables, used in conjunction with one another,

describe the dock type and lot numbers of authorized and in-place dock locations. True orientation of floats attached to Floating Docks is shown on the Map. Floats on both sides at the end of a single pier usually indicate a pier structure shared by two adjacent lots with separate floats provided for each lot owner.

Undeveloped shorelines authorized as future Key Location Dock sites are shown by color-coding on the Maps to indicate dock type, with authorized shoreline given in linear feet in the Tables.

- D. For undeveloped properties and subdivisions where platting is not complete, a developer may, with approval of the Planning Commission, trade-off linear footage of shoreline from one permitted location to another permitted location with no net gain in total authorized footage. Further, transfer of footage may not cause a Key Location to be lengthened by more than 50 percent. In a trade-off event, the developer "borrows" from one Key Location to supplement another Key Location that does not have sufficient linear footage to meet development requirements. Some "trade-offs" which have occurred in the past resulted in the deletion of Key Locations once authorized in the original Key Location Ordinances, 91-2 and 92-1. These deletions are identified and described on both the Map and in the Tables.
- E. It is the intent of this Ordinance that construction of community docks, subdivision (neighborhood) docks, and joint use docks shared by adjacent lot owners be encouraged versus a single installation per lot. This approach serves to minimize the ultimate number of docks built and is more environmentally compatible.
- F. The following criteria shall be applied in the design of any authorized dock structure:
- (1) Overall dock length:  
  
No dock shall be erected greater than 600 linear feet in length.
  - (2) Float design:  
  
Floats attached to such docks shall be limited in size and configuration as the South Carolina Department of Health and Environmental Control's Office of Ocean and Coastal Resource Management (DHEC/OCRM) and the US Corps of Engineers shall permit.
  - (3) Spacing between adjacent docks:  
  
The minimum distance between adjacent docks shall be 150 feet. However, for adjacent Key Locations properties on river or stream

bends, the waterside terminus of adjacent docks may be at a minimum distance of 75 feet.

- (4) Maximum extension of the dock structure into a river, stream, or channel:

The leading edge (edge nearest the river, stream or channel center) of a pier head and/or float structure shall not extend out into a river or stream more than one-quarter of the river or stream width measured at mean low water, or 50 feet, whichever is less. This projection is to be measured from the water's edge at mean low water.

- (5) Minimum river or stream width:

No dock shall be erected, whether an authorized Key Location or not, if the stream or river on which it is to be erected is 25 linear feet or less in width measured from the marsh grass edge on one bank to the marsh grass edge on the opposing bank directly across the waterway.

- G. The following approvals shall be required before construction on any dock can proceed:

- (1) Town of Kiawah Island.

An initial written request to construct shall be submitted to the Town of Kiawah Island Planning Director prior to any other requests being made. The intent is to confirm to the lot owner whether, in fact, the proposed site is a Key Location before the lot owner spends time and money in developing drawings, etc., for a non-viable project.

- (2) Design approval by DHEC/OCRM and the Town of Kiawah Island.

The second step shall be for the applicant or his contractor to submit dock design to DHEC/OCRM using the appropriate forms and following accepted procedures. During this process, the Town of Kiawah Island will have an opportunity to review the design prior to DHEC/OCRM returning the approved or disapproved application to the applicant. No construction shall start until this approval is forthcoming.

**Table 2M: Town of Kiawah Island Key Locations Floating Docks**

Designation <sup>(a)</sup>	Key Location	Auth.	No.	Docks Authorized
	Location	Shoreline (Lin. Ft.)		Site <sup>(b)</sup> /Use
1	Beachwalker Park	100	TBD	Beachwalker Park
2	Inlet Cove		1	Inlet Cove Neighborhood Dock <sup>(c)</sup>
3	Kiawah River Cmns.	600	TBD	Kiawah Riv. Cmns.
4	Little Rabbit	400	TBD	Little Rabbit
5	Mingo Point	1,200	1	Mingo Point Commercial Dock <sup>(d)</sup> and Boat Launch
6	Old Dock Road		10	Lot #'s 489, 490, 491, 492, 493, 495, 496, 497, 498, & 499
7	The Settlement West	800	TBD	The Settlement West
8	Rhett's Bluff, North		24	Lot #'s 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51/52, and the Rhett's Bluff Park Community Dock <sup>(e)</sup> and Boat Launch
9	Capt. Maynard's, N.	280	1	Lot # 1
10	Capt. Maynard's, S.	930	1	Lot # 1
11	Rhett's Bluff, South		6	Lot #'s 7/8, 9/10, 11/12, 13/14, 15/16 & 17/18
12	Vanderhorst House	50	1	Tracts A & B
13	Terrapin Island		6	Lot #'s 7A/8B, 9/10, 11, 12, 13, & 14
14	Preserve, N.E. Tip	100	1	Lot # 85

Designation <sup>(a)</sup>	Key Location Location	Auth. Shoreline (Lin. Ft.)	No.	Docks Authorized Site <sup>(b)</sup> /Use
15	Cormorant Island, N.		2	Lot #'s 23/24, & 25/26
16	Eagle Point, Central		5	Lot #'s 226/228, 230/232, 234/236, 238/240, and the Eagle Point Neighborhood Dock
17	Eagle Point, West		2	Lot #'s 222/224 and the Eagle Point Dock and Boat Launch
18	Salt Cedar Lane, East Tip		1	Lot # 62
19	Salt Cedar Lane, East		2	Lot #'s 60 & 61
20	Preserve, South		4	Lot #'s 42, 44/46, 48/50 and the Preserve Neighborhood Dock
21	Salt Cedar Lane, Cent.	500	2	Lot #'s 57 & 58
22	Salt Cedar, West		2	Lot #'s 53/54 and the Salt Cedar Community Dock
24	Cougar Island, West	1,150	TBD	Cougar Island, West
25	Cormorant Island, S.		2	Lot #'s 28/29, & 30/31
26	Cougar Island, W. Tip	300	TBD	Cougar Island, W. Tip
27	Otter Island, East		1	Lot # 91
28	Summer Islands, East		4	Lot #'s 12/13, 14/15, 17, and the Summer Islands Neighborhood Dock
29	Summer Islands, West		4	Lot #'s 1/2, 3/4, 5/6, & 7
30	Otter Island, Savanna Point		3	Lot #'s 82, 83/84, & 85/86
31	Otter Island Rd., West		2	Lot #'s 70/71, & 72/73
32	Otter Island Rd., West Tip		2	Lot #'s 68 & 69
33	Ocean Course Drive	500	1	Lot # 65
34	Club Cottages		3	Lot #'s 6, 7, & 8
35	Cougar Island, E. Tip	1,100	TBD	Cougar Island, E. Tip

**Notes for Table 2M:**

- (a) Numerals indicate Floating Docks – Letters indicate Fixed Docks.  
(b) "21/22" Typically indicates that two lots share a single dock.  
(c) Neighborhood Docks serve just the local area or regime.  
(d) Commercial Dock is owned by Kiawah Island Golf Resort.  
(e) Community Docks are KICA property and serve the entire island.

**Table 2N: Town of Kiawah Island Key Locations Fixed Docks**

Key Location		Auth.	Docks Authorized	
Designation <sup>(a)</sup>	Location	Shoreline (Lin. Ft.)	No.	Site <sup>(b)</sup> /Use
A	Old Dock Rd./ Ruddy Turnstone		6	Lot #'s 500, 512, 513, 514, 515, & 517
B	The Settlement, East	1,050	TBD	The Settlement, East
C	Bass Pond, East		1	Bass Pond Community Dock <sup>(c)</sup>
D	Terrapin Island		1	Lot # 15
E	Blue Heron, North		1	Lot # 158
G	Eagle Point, East	1,100	TBD	Eagle Point, East
H	Falcon Point Rd., East		1	Lot # 67
J	Blue Heron, West		1	Blue Heron Community Dock
K	Cougar Island, West	250	TBD	Cougar Island, West
N	Ocean Course Drive		1	Lot # 64
O	Falcon Point, East		1	Falcon Point Neighborhood Dock <sup>(d)</sup>
R	Shell Crk. Lndg., East		1	Lot # 5
S	Shell Crk. Lndg., S.		2	Lot #'s 1/2 & 3/4
T	Club Cottages		3	Lot #'s 9, 10, and the Club Cottage Neighborhood Dock
U	Marsh Cottages		2	Lot #'s 25/26, and the Marsh Cottages Neighborhood Dock
V	Ocean Oaks		1	Ocean Oaks Neighborhood Dock
W	Ibis Pond		1	Ibis Pond Community Dock
X	Willet Pond		1	Willet Pond Community Dock
Y	Blue Heron, North	800	TBD	Blue Heron, North
Z	Osprey Entry		1	Canvasback Pond Community Dock
AA	Bass Pond, West	100	TBD	Bass Pond, West
BB	Egret Pond		1	Egret Pond Community Dock

**Notes for Table 2N:**

- (a) Numerals indicate Floating Docks. Letters indicate Fixed Docks.
- (b) "21/22" typically indicates that two lots share a single dock.
- (c) Community Docks are KICA property and serve the entire Island.
- (d) Neighborhood Docks serve just the local area or regime.



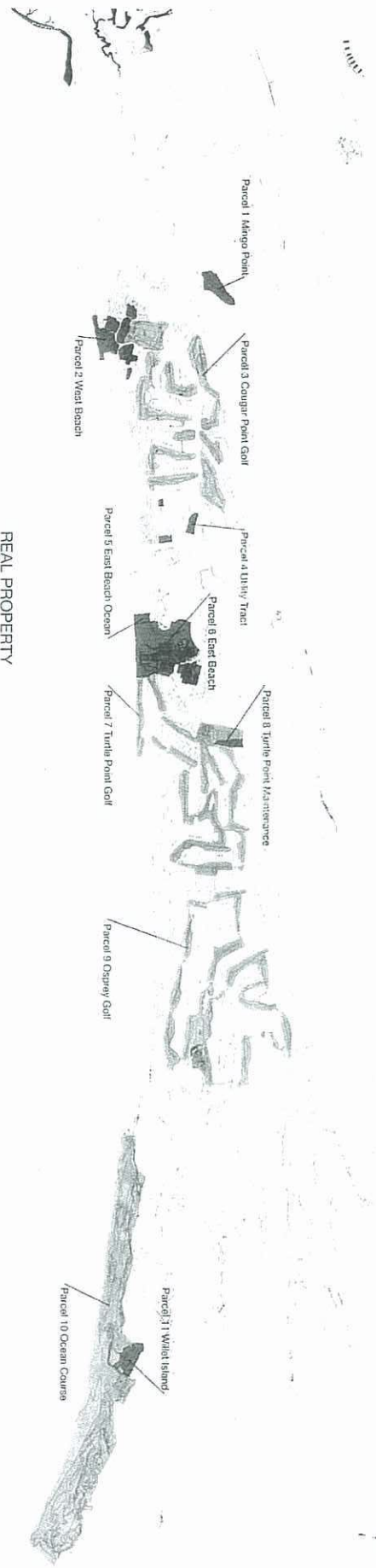
**12A-220**      **DESIGNATION OF ANNEXED TERRITORY**

Purpose and Intent:

This section describes the processing procedure for development applications located within newly annexed areas.

1. No development applications shall be filed for thirty (30) days from the date of annexation for any territory annexed to the Town. This thirty (30)-day moratorium is a "planning pause" moratorium to allow the Town Planning Commission to initiate proceedings to designate permanent zoning for the newly annexed territory. The Town Council may extend the thirty (30) day planning pause by ordinance for an additional period of time deemed reasonable by the Town Council.

see map



Parcel 1 Mingo Point

Parcel 2 West Beach

Parcel 3 Cougar Point Golf

Parcel 4 Uhhly Tract

Parcel 5 East Beach Ocean

Parcel 6 East Beach

Parcel 7 Turtle Point Golf

Parcel 8 Turtle Point Maintenance

Parcel 9 Osprey Golf

Parcel 11 White Island

Parcel 10 Ocean Course

**REAL PROPERTY**

Lands Owned by  
Property Owner

EXHIBIT 13.1 04.01.10

**Exhibit 13.2: Description of Real Property**  
**Owned by Property Owner**  
**(08.11.2010) (errata noted in red 08.23.2010)**

Tax Map Number	Parcel #	Parcel Description	Acreage
207.00.00.009	1	Mingo Point	11.20
	2	West Beach Village	27.91
207.06.00.232		A. Inn/Reception 6.93	
207.06.00.401		B. Lagoon Rooms 3.67	
207.06.00.399		C. Strawmarket 1.19	
207.06.00.407		D. Dunefield 5.35	
207.06.00.404		E. Support Buildings 1.91	
207.06.00.405		F. Club Conference 1.7	
207.06.00.406		G. Sparrow Pond 0.97	
207.06.00.402		H. Tennis Center 5.48	
207.06.00.403		I. Tennis Parking 0.71	
	3	Cougar Point Golf	123.99
207.00.00.017		A. Golf Course 121.39	
207.00.00.017		B. Clubhouse 1.1	
207.06.00.013		C. Maintenance 1.5	
	4	Utility Tract	5.99
209.01.00.121		A. Telephone Building 0.59	
209.01.00.122		B. Laundry/Commissary 3.31	
209.05.00.098		C. Warehouse 2.09	
209.07.00.126	5	East Beach Ocean	3.05
	6	East Beach Village	68.49
209.07.00.105		A. Town Center 10.51	
264.05.00.002		B. Tennis Center 8.48	
209.07.00.124		C. Hotel Residual 24.49	
209.07.00.124		D. Hotel (255 Rooms) 23.70	
209.07.00.124		E. Wetland Mitigation 1.31	
207.00.00.018	7	Turtle Point Golf	131.89
264.01.00.054	8	Turtle Point Maintenance	2.87
207.00.00.019	9	Osprey Point Golf	132.97
	10	Ocean Course	348.87
207.00.00.020		A. Golf Course 324.36	
207.00.00.020		B. Residential +20.00	
207.00.00.020		C. Cougar Isl. Residual ± 4.51	
207.00.00.020	11	Willet Island	9.14
		<b>TOTAL</b>	<b>866.37</b>

----- Acreage includes parcels 10B and 10C combined.

R-2 (DA), Residential

Purpose and Intent:

The purpose of the R-2 (DA) zoning district is to promote stable residential neighborhoods consisting of medium density residences surrounded by parks, golf courses and open spaces. The district is intended for a variety of dwelling unit types. Activities and endeavors which might serve to mitigate against this purpose shall be prohibited or strictly regulated.

The following apply to the R-2 (DA) zoning district:

1. The maximum density for this district is seven (7) dwelling units per acre; or the equivalent of 21 Bedrooms per acre.
2. All required parking shall be enclosed excepting that all required parking for Bldg 3-7 shall be screened with vegetation or enclosed;
3. Open storage is prohibited;
4. There shall be 10 Sq. Ft. of swimming pool and contiguous pool deck area per Bedroom.
5. There shall be no more than seven (7) dwelling units in any building within this district;
6. Lot standards (setbacks, lot coverage, etc.) for single family detached dwellings, patio homes, duplexes, townhouses and Bldg 3-7 are outlined in Table 1A and 1B.
7. The Uses authorized for the R-2 (DA) zoning district shall be those authorized in Table 3A of the Zoning Ordinance for the R-2 zoning district except that Bldg 3-7 shall be a permitted use (P).

**Table 1A: Lot Standards for R-2 (DA) Single Family Detached Dwellings**

Lot Size in Sq. Ft.	Maximum Lot Coverage	Depth in Feet	Width in Feet (1)	Minimum Setbacks in Feet			Maximum Height in Stories/Feet
				Front Yard (2)	Side Yard (3)	Rear Yard (4)	
2,000-3,999	60%	65	20	10	3	10	2.5/40
4,000-5,999	50%	75	30	15	7	15	2.5/40
6,000-7,999	50%	85	55	20	7	20	2.5/40
8,000-11,999	40%	100	60	25	15	25	2.5/40
12,000 +	33%	100	75	25	20	25	2.5/40

**Notes for Table 1A:**

1. For lots on cul-de-sacs or similar circumstances, the minimum width shall apply at the front yard setback line. Cul-de-sac lots shall have a minimum width of 25 feet at the street line. The minimum width of any flag lot may be reduced to 20 feet, provided that the minimum width specified in the table is provided at the front building setback line.
2. On corner and double-frontage lots, front setback standards will apply to each lot line that borders a street right-of-way. The rear yard setback shall apply to the opposite side of the principal structure's front main entrance. The side yard setback shall apply to the remaining side(s).
3. A minimum of 15 feet must be provided between structures.
4. The minimum yard requirements shall be increased to 30 feet from any lot or parcel boundary which abuts a golf course.

**Table 1B: Lot Standards for R-2 (DA) Patio Homes, Duplexes, Townhouses & Bldg 3-7 Dwelling Units**

Housing Type	Minimum Lot Size in Sq. Ft.	Minimum Setbacks in Feet			Maximum Height in Stories/Feet	Maximum Lot Coverage
		Front	Side (1)	Rear		
Patio Homes, Zero Lot Line Homes	4,000	20	0/10 (2)	20	2.5/35	50%
Duplex	6,500	15	7	20	2.5/40	40%
Townhouse	2,000	10	(see note 3)	20	2.5/40	60%
Bldg 3-7 (4)	10,000	25	(see note 3)	20	3.5/55	60%

**Notes for Table 1B:**

1. *On corner and double-frontage lots, front setback standards will apply to each lot line that borders a street right-of-way. The rear yard setback shall apply to the opposite side of the principal structure's front main entrance. The side yard setback shall apply to the remaining side(s).*
2. *A total distance of 15 feet is required between buildings with 10 feet minimum setback being required on one side of each lot.*
3. *Where the front, interior side and rear setbacks of the underlying zoning district reduces the buildable width of a lot to less than 40 feet, the Planning Director shall be authorized to reduce the required setbacks as much as necessary. However, no setback reduction granted by the Planning Department shall be for more than 15 feet.*
4. *Any building with a minimum of 3 and no greater than 7 Dwelling Units. Dwelling Units within such a building may be separately owned and conveyed.*

R-3 (DA), Residential

Purpose and Intent:

The purpose of the R-3 (DA) zoning district is to provide for neighborhoods consisting of higher density, residential development of Kiawah Island's residents and guests, surrounded by parks, golf courses, and open spaces. It accommodates Bldg 3-7 dwellings and other higher density single family alternatives, such as duplexes or townhouses. Activities and endeavors which might serve to mitigate against this purpose shall be prohibited or strictly regulated.

The following apply to the R-3 (DA) zoning district:

1. The maximum density for this district is twelve (12) dwelling units per acre;
2. All required parking shall be enclosed excepting that all required parking for Bldg 3-7 shall be screened with vegetation or enclosed;
3. Open storage is prohibited;
4. There shall be 10 Sq. Ft. of swimming pool and contiguous pool deck area per Bedroom.
5. There shall be no more than seven (7) dwelling units in any building within this district;
6. Lot standards (setbacks, lot coverage, etc.) for single family detached dwellings, patio homes, duplexes, townhouses and Bldg 3-7 are outlined in Table 2A and 2B.
7. The Uses authorized for the R-3 (DA) zoning district shall be those authorized in Table 3A of the Zoning Ordinance for the R-3 zoning district except that Bldg 3-7 shall be a permitted use (P).

**Table 2A: Lot Standards for R-3 (DA) Single Family Detached Dwellings**

Lot Size in Sq. Ft.	Maximum Lot Coverage	Depth in Feet	Width in Feet (1)	Minimum Setbacks in Feet			Maximum Height in Stories/Feet
				Front Yard (2)	Side Yard (3)	Rear Yard (4)	
2,000-3,999	60%	65	20	10	3	10	2.5/40
4,000-5,999	50%	75	30	15	7	15	2.5/40
6,000-7,999	50%	85	55	20	7	20	2.5/40
8,000-11,999	40%	100	60	25	10	25	2.5/40
12,000 +	33%	100	75	25	20	25	2.5/40

**Notes for Table 2A:**

1. For lots on cul-de-sacs or similar circumstances, the minimum width shall apply at the front yard setback line. Cul-de-sac lots shall have a minimum width of 25 feet at the street line. The minimum width of any flag lot may be reduced to 20 feet, provided that the minimum width specified in the table is provided at the front building setback line.
2. On corner and double-frontage lots, front setback standards will apply to each lot line that borders a street right-of-way. The rear yard setback shall apply to the opposite side of the principal structure's front main entrance. The side yard setback shall apply to the remaining side(s).
3. A minimum of 15 feet must be provided between structures.
4. The minimum yard requirements shall be increased to 30 feet from any lot or parcel boundary which abuts a golf course.

Table 2B: Lot Standards for R-3 (DA) Patio Homes, Duplexes, Townhouses & Bldg 3-7 Dwelling Units

Housing Type	Minimum Lot Size in Sq. Ft.	Minimum Setbacks in Feet			Maximum Height in Stories/Feet	Maximum Lot Coverage
		Front	Side (1)	Rear		
Patio Homes, Zero Lot Line Homes	4,000	20	0/10 (2)	20	2.5/35	50%
Duplex	6,500	15	7	20	2.5/40	40%
Townhouse	2,000	10	(see note 3)	20	2.5/40	60%
Bldg 3-7 (4)	10,000	25	(see note 3)	20	3.5/55	60%

Notes for Table 2B:

1. On corner and double-frontage lots, front setback standards will apply to each lot line that borders a street right-of-way. The rear yard setback shall apply to the opposite side of the principal structure's front main entrance. The side yard setback shall apply to the remaining side(s).
2. A total distance of 15 feet is required between buildings with 10 feet minimum setback being required on one side of each lot.
3. Where the front, interior side and rear setbacks of the underlying zoning district reduces the buildable width of a lot to less than 40 feet, the Planning Director shall be authorized to reduce the required setbacks as much as necessary. However, no setback reduction granted by the Planning Department shall be for more than 15 feet.
4. Any building with a minimum of 3 and no greater than 7 Dwelling Units. Dwelling Units within such a building may be separately owned and conveyed.

Exhibit 13.5: Kiawah Island Golf Resort  
Parcel-Specific Development Standards  
(10.05.2010)

Parcel #	Parcel Description	Zoning District(s) (1)	Approx. Acres (2)	Max. Gross Parcel Density (3)	Total Dwelling Units (4)	Max. Bedrooms/ Guest Rooms Parcels 2 and 6	Max. New Dwelling Units (5)	Max. F.A.R. w/Transfer (6)	Max. Height Stories/Ft. (7) (8)		Parcel Open Space (9)			
									R-2 (DA)	RST-2	R-2 (DA)	RST-2		
1	Mingo Point	R-2, C	11.2	4	46	—	46	0.25	2 <sup>1/2</sup> / 40		R-2	C		
2	West Beach Village (10) (11) (17) A. Inn/Reception B. Lagoon Rooms (12) C. Strawmarket D. Dunefield E. Support Buildings (12) F. Club Conference (12) G. Sparrow Pond H. Tennis Center I. Tennis Parking	R-2 (DA), RST-2 R-2 (DA), RST-2 R-2 (DA), RST-2 PR R-2 (DA), RST-2 R-2 (DA), RST-2 PR PR R-2 (DA), RST-2	6.93 3.67 1.19 5.35 1.91 1.7 0.97 5.48 0.71	7 (21 BR) (16) 7 (21 BR) (16) 7 (21 BR) (16) — 7 (21 BR) (16) 7 (21 BR) (16) — — 7 (21 BR) (16)	49 26 8 — 13 12 — — 5	340 — — — — — — — —	49 26 8 — 13 12 — — 5	— — — — — — — — —	R-2 (DA)		RST-2		R-2 (DA)	RST-2
									3 <sup>1/2</sup> / 55	4 / 55	40-60	30		
									3 <sup>1/2</sup> / 55	4 / 55	40-60	30		
									3 <sup>1/2</sup> / 55	4 / 55	40-60	30		
									2 / 35	4 / 55	40-60	30		
									3 <sup>1/2</sup> / 55	4 / 55	40-60	30		
									2 / 35	4 / 55	40-60	30		
									2 / 35	4 / 55	40-60	30		
									2 / 35	4 / 55	40-60	30		
									2 / 35	4 / 55	40-60	30		
									2 / 35	4 / 55	40-60	30		
3	Cougar Point Golf A. Golf Course B. Clubhouse (11) C. Maintenance	PR R-2 (DA), RST-2 RST-2	121.39 1.1 1.5	— 7 (21 BR) (16) —	— 8 —	— — —	— 8 —	— — 0.25	2 / 35	4 / 55	40-60	30		
4	Utility Tract A. Telephone Building B. Laundry/Commissary C. Warehouse	CS CS CS	0.59 3.31 2.09	— — —	— — —	— — —	— — —	0.25 0.25 0.25	2 <sup>1/2</sup> / 40	2 <sup>1/2</sup> / 40	4 / 70	40-60	30	
									2 <sup>1/2</sup> / 40	2 <sup>1/2</sup> / 40	4 / 70	40-60	30	
									2 <sup>1/2</sup> / 40	2 <sup>1/2</sup> / 40	4 / 70	40-60	30	
5	East Beach Ocean (13)	R-3 (DA), RST-1	3.05	12	37	—	—	—	R-3 (DA)		RST-1			
									3 <sup>1/2</sup> / 55	4 / 70	40-60	30		
									3 <sup>1/2</sup> / 55	4 / 70	40-60	30		
									3 <sup>1/2</sup> / 55	4 / 70	40-60	30		
									2 <sup>1/2</sup> / 40	4 / 70	40-60	30		
6	East Beach Village (13) (17) A. Town Center B. Tennis Center C. Hotel Residual D. Hotel (255 Guest Rooms) E. Wetland Mitigation	R-2 (DA), RST-1 PR R-2 (DA), RST-1 RST-1 PR	10.51 8.48 24.49 23.7 1.31	7 (21 BR) (16) — 7 (21 BR) (16) — —	74 — 171 — —	670 — — — —	74 — 171 — —	— — — — —	2 <sup>1/2</sup> / 40	2 <sup>1/2</sup> / 40	4 / 70	40-60	30	
									3 <sup>1/2</sup> / 55	3 <sup>1/2</sup> / 55	4 / 70	40-60	30	
									3 <sup>1/2</sup> / 55	3 <sup>1/2</sup> / 55	4 / 70	40-60	30	
									2 / 35	4 / 70	40-60	30		
									2 / 35	4 / 70	40-60	30		
7	Turtle Point Golf	PR	131.89	—	—	—	—	2 / 35		RST-1				
								2 / 35	—	40-60	30			
8	Turtle Point Maintenance	PR	2.87	—	—	—	—	2 / 35		RST-1				
9	Osprey Point Golf	PR	132.97	—	—	—	—	2 / 35		RST-1				
10	Ocean Course A. Golf Course B. Residential C. Cougar Island Residual	PR R-1 R-2	324.36 ±20,000 (14) ±4,51(14)	— — —	— 20 (15) 3	— — —	— — —	— — —	2 / 35	2 <sup>1/2</sup> / 40	2 <sup>1/2</sup> / 40	50-60 (18)	30	
									2 / 35	2 <sup>1/2</sup> / 40	2 <sup>1/2</sup> / 40	50-60 (18)	30	
									2 / 35	2 <sup>1/2</sup> / 40	2 <sup>1/2</sup> / 40	50-60 (18)	30	
11	Willard Island	R-2	9.14	—	20	—	—	2 <sup>1/2</sup> / 40		50-60 (18)				
TOTAL			866.37	—	492	1010	492	—						



Exhibit 13.5: Kiawah Island Golf Resort  
Parcel-Specific Development Standards  
(10.05.2010)

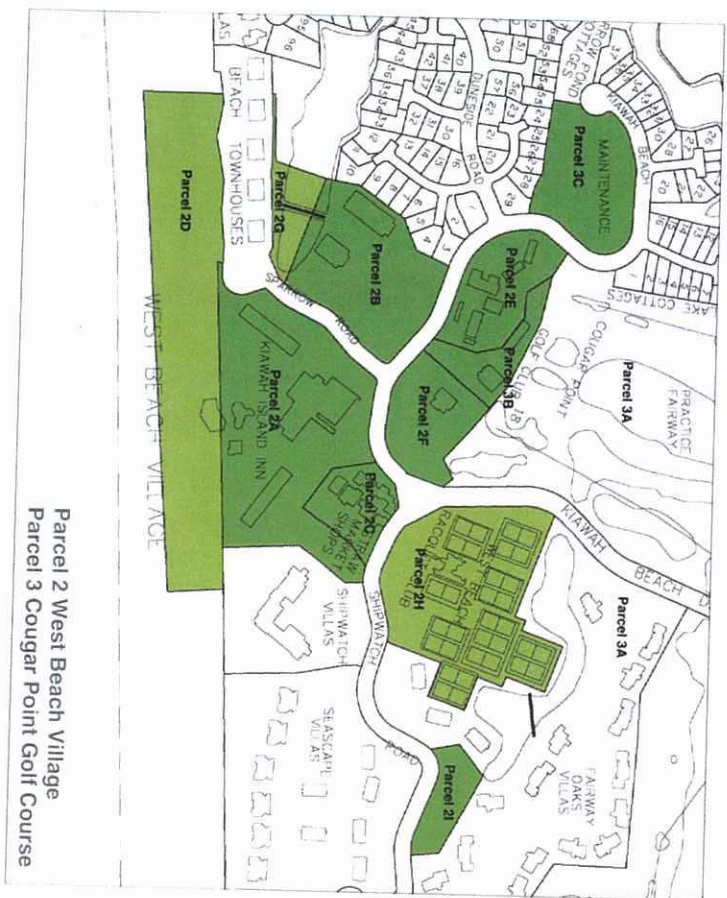
Notes governing Exhibit 13.5: Parcel-Specific Development Standards

- 1 With respect to Parcels subject to dual zoning (i.e., where two districts apply to the Parcel in the above table), the Property Owner shall have the right to develop these Parcels pursuant to either zoning district. All Development on a dual zoned Parcel shall comply with the allowed Uses, Building Development Standards, and other development standards for the designated zoning district. If the Property Owner intends to proceed with Development on the dual zoned Parcel under both zoning districts, the Property Owner must first identify the proposed uses, appropriate zoning district and land area required to meet the development guidelines.
- 2 By way of example, assume a 15 Acre parcel permits RST-2 and/or R-2(DA) zoning districts. If the 15 Acre parcel was developed exclusively as a hotel, the maximum capacity is 9 Bedrooms/Acre or a 135-Room hotel. If the parcel was developed exclusively as residential, the maximum capacity is 21 Bedrooms/Acre (and 7 Dwelling Units/Acre) or 315 Bedrooms (and 105 Dwelling Units). Under no circumstance could development exceed 315 bedrooms. If the hypothetical decision is to have a smaller 50-Room hotel, the acreage required is 5.56 Ac (50 Rooms ÷ 9 Rooms/Acre). This would leave 9.44 Acres remaining available for residential (15 Acres ÷ 5.56 Acres). This would allow for up to 198 Bedrooms/66 DU (9.44 Acres x 21 Bedrooms/Acre and 7DU/Acre). The total Bedroom count for the hypothetical dual zoning would be 248 Bedrooms or substantially less than the maximum 315 Bedrooms.
- 3 Acreage figures are approximate. Acreage for a Parcel may vary depending on a final determination of acreage at the time new Development proceeds on a given Parcel.
- 4 Gross Density equals the number of potential Dwelling Units (existing and future) divided by the gross residential acreage of the Parcel above mean high water, excluding Fresh Water and Salt Water Wetlands. Gross Density limits are not intended to discourage or limit the development of higher density types or clusters or residences within a Parcel; provided, however, that maximum density limits are used to establish an absolute cap on the total number of Dwelling Units on a Parcel (i.e. Property Owner may construct more than 21 bedrooms on a given acre as long as the overall permissible Parcel Density or cap for that Parcel is not exceeded). As each Parcel is platted or sold, the Property Owner shall clearly establish the maximum number of Dwelling Units which may be permitted on a Parcel. In the event that density is limited by physical constraints, a bridge permit or other regulatory constraint beyond the Town's jurisdiction, said limits are not intended to be superseded by this agreement.
- 5 The total number of single family Lots and non-single family Dwelling units permitted in the Parcel at maximum permitted densities.
- 6 The maximum number of Vested Units which may be approved on any one Parcel, subject to the limit of 492 total Vested Units.
- 7 Maximum floor area ratio (FAR) equals the building floor area divided by the non-residential or mixed use acreage above mean high water, excluding Fresh Water and Salt Water Wetlands. This column shows the maximum floor area ratio which may be developed on an individual Parcel. The maximum FAR stated herein shall apply to the Development of the Real Property notwithstanding any more restrictive standard applicable to the underlying zoning district.
- 8 No development shall exceed the maximum number of stories or the maximum height in feet listed in this column.
- 9 Height allowance of 55' (Parcels 2A, 2B, 2C, 2E, 2F, 2I, 5, 6A, and 6C) and 70' (Parcels 5, 6C, and 6D) from Ground Floor level is to allow for alternative forms and configurations of massing to minimize the impact of habitable floors. This would include but not be limited to increased roof pitches, dormers, and innovation in overall massing. Roof slope of the dominant roof on the 4" habitable floor shall not be greater than 8:12 for residential buildings.
- 10 Parcel open space is the minimum percentage requirement of PerVIOUS Coverage for a Parcel.
- 11 An 8' pedestrian access easement shall be located within Parcel 2 to provide pedestrian access to the beach. The easement shall be incorporated in future development plans and shall be shown on appropriate site permit drawings. 20 parking spaces, within the overall parking plan for Parcel 2, will be available for the public.
- 12 There shall be no more than 150 Guest Rooms constructed on Parcels 2A, 2B, 2C, 2E, 2F, 2I and 3B. The total combined number of new Guest Rooms and Bedrooms on Parcel 2 shall not exceed 340.
- 13 Parking requirements for Cougar Point Golf will be located within Parcels 2A, 2E and 2F in addition to uses permitted in RST-2 category.
- 14 There shall be no more than an additional 175 Guest Rooms constructed on Parcels 5, 6C, and 6D. The total combined number of new Guest Rooms and Bedrooms on Parcel 6 shall not exceed 670. Guest Room density for expansion of The Sanctuary will be established at 40 Guest Rooms/acre including required parking. The Guest Room density for a free standing hotel shall conform with the RST-1 standard of 8 Guest Rooms/Acre.
- 15 Parcels or subparcels shall have a duly recorded survey or plat establishing boundaries prior to issuance of any development permits.
- 16 Up to 20 Dwelling Units may be permitted in the area indicated as Parcel 10B in Exhibit 13.6.
- 17 The 21 Bedroom per acre equivalent limit is intended for overall Parcel density calculations and not intended to limit the number of Bedrooms per Dwelling Unit, Bedrooms per Lot, or Bedrooms per a given acre.
- 18 The Property Owner will remove and relocate its villa check-in operations in Parcel 6 East Beach Village to either Parcel 1 Mingo Point, Parcel 2 West Beach Village, or off-island at the time of the redevelopment of East Beach Village. Redevelopment shall be deemed to occur when Property Owner has obtained the necessary permits and approvals for the redevelopment.
- 19 This standard will be met if Open Space is 50% or greater for the entire Parcel.

*and  
plan*

**Exhibit 13.5: Kiawah Island Golf Resort  
Parcel-Specific Development Standards  
(10.05.2010)**

**Location Maps**



**Parcel 2 West Beach Village  
Parcel 3 Cougar Point Golf Course**

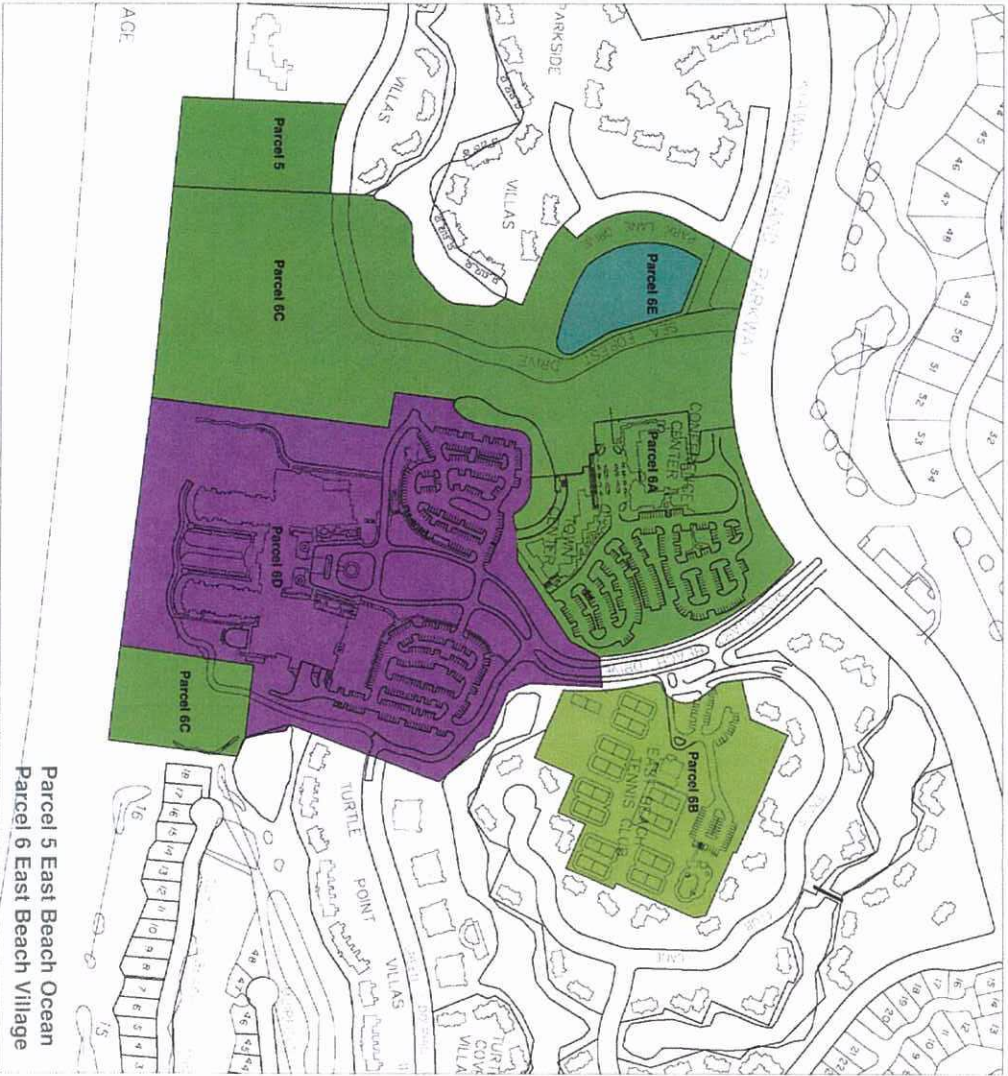


**Parcel 4 Utility Tract**

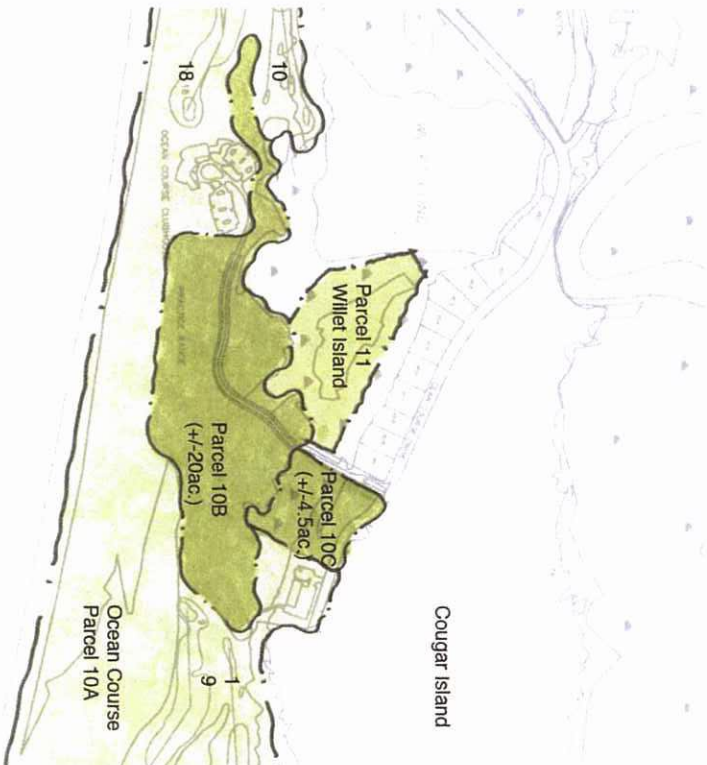
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**Exhibit 13.5: Klawah Island Golf Resort  
Parcel-Specific Development Standards  
(10.05.2010)**

**Location Maps**



**Parcel 5 East Beach Ocean  
Parcel 6 East Beach Village**



**Parcel 10 Ocean Course  
Parcel 11 Williet Island**