

Town of Kiawah Island Zoning Ordinance Amendment Request
Case AZO25-000004 Case History

Planning Commission Meeting: June 4, 2025
Public Hearing and First Reading: July 1, 2025
Second Reading:

CASE INFORMATION

Applicant: Town of Kiawah Island

Application: The Town of Kiawah is requesting to amend the *Town of Kiawah Island Land Use Planning and Zoning Ordinance* Division 3. – Use Regulations and Sec. 12-374. Definitions. to refine and regulate uses which are compatible with the purpose of that district, with or without conditions or to restrict uses.

Key Factors of the Proposed Ordinance:

The proposed amendment:

- Eliminates several commercial retail uses as a by-right or conditional use from several zoning districts.
- Removes residential uses from the CS-2, Community Support zoning district.
- Modifies the PR-OC Zoning District to incorporate conditional use reference based on current conditions of the zoning district pertaining to dwelling units and the integration of residential and nonresidential buildings.
- Qualifies parking areas which are not specifically associated with a proposed development. These include parking facilities as the principal use. Establishes conditions consistent with those of landscaping and parking standards for visual and aesthetic value for such facilities.
- Modifies accessory structure standards pertaining fences and pools.

RECOMMENDATION BY THE PLANNING COMMISSION

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

DECISION ON AMENDMENT BY THE TOWN COUNCIL

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

APPROVAL CRITERIA

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

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

PLANNING STAFF REVIEW

The proposed changes to the use regulations are consistent with the land use patterns with the Town of Kiawah Island.

Planning staff finds the proposed amendment satisfies the approval criteria pursuant to §12-158(6) and recommends approval.

PLANNING COMMISSION MEETING JUNE 4, 2025

Notifications: Notice of this meeting has been published and posted in accordance with the Freedom of Information Act and the requirements of the Town of Kiawah Island.

TOWN COUNCIL MEETING PUBLIC HEARING AND FIRST READING

Notifications: Notice of this meeting has been published and posted in accordance with the Freedom of Information Act and the requirements of the Town of Kiawah Island.

DIVISION 3. USE REGULATIONS

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

- (a) Purpose and intent. Principal uses are the uses permitted in each zoning district. These are shown in table 3A in subsection (c) of this section, authorized uses in zoning districts. The intent is to allow and regulate uses which are deemed compatible with the purpose of that district, with or without conditions; or to restrict uses.
- (b) Use regulations are conditions of use. These conditions are requirements which must be met to comply with this article.
- (c) The following ~~three~~ classifications of use are permitted, conditional and special exception as defined in this subsection and as listed in table 3A in this subsection ~~(where no classification of use is shown (blank cell), that use is prohibited in the zoning district):~~

- (1.) *Permitted use (P)*. Permitted use is the principal use allowed in a zoning district. It is a use of right. By way of example, single-family detached dwelling units are permitted in all residential zoning districts, R-1, R-2 and R-3. However, multifamily residential units are only permitted in the R-3 zoning district. The letter P indicates that a use type is a permitted use.
- (2.) *Conditional use (C)*. Conditional uses are uses that are permitted within a zoning district only when the identified conditions for that particular use have been met and the zoning permit application approved by the Planning Director. Conditions for each use are specified in section 12-103, conditions of use. The letter C indicates that a use type is a conditional use.
- ~~(3.)~~ *Special exception (S)*. Special exceptions may only be granted by the Board of Zoning Appeals. These are uses which are generally compatible with the permitted land uses in a zoning district, but which require specific review of the location of the site and the design, configuration and operation of the proposed use, as well as the possibility of imposition of conditions in order to ensure the compatibility of the use at a particular location within the zoning district. Section 12-161 provides a complete description and requirements for special exceptions. The letter S indicates that a use type requires a special exception.

~~(3.)~~ _____

~~(4.)~~ *Prohibited Use*. A blank cell indicates that the use type is prohibited within the zoning district.

~~(5.)~~ A cell containing multiple classifications as (C/S) indicates a conditional use or a special exception use as specified in the conditional use reference. Refer to Section 12-103, conditions of use.

~~(d)~~ _____

Planned Development. Planned Developments shall follow the Planned Development provisions contained in sections 12-73 and 12-159, and the code text and zoning district map amendments provisions contained in section 12-158.

Table 3A. Authorized Uses in Zoning Districts																
P=Permitted Use		C=Conditional Use		S=Special Exception				Blank Cell=Prohibited Use								
Use Category		Zoning Districts														Conditio nal Use Referenc e
Principal Uses		R-1	R-2	R-3	C	RST-1	RST-2	CS	CS-2	PR	PR-OC	PD	KC			
Residential																
Single-family detached ¹		P	P	P					P		<u>PC</u>	€			(a)	
Single-family attached, also known as townhouses or patio homes ¹			P	P					P		<u>PC</u>	€			(a)	
Duplex ¹			P	P					P		<u>PC</u>	€			(a)	
Multifamily (including townhouses and apartments) ¹				P					P		<u>PC</u>	€			(a)	
Civic/institutional																
Courts and public safety																
Court of law								P	P							
Safety services, including emergency medical or ambulance service, fire protection or police protection								P	P							
Educational services																
Day care												€			(ab)	
Preschool or educational nursery					C						€	€			(b)	
Personal improvement education, including golf or fine arts schools						C	C			C	C				(b)	
Health care services																
Physicians' and dentists' offices					P							€			(c)	
Medical clinics-outpatient services					C										(c)	
Museums, historical sites and similar institutions																
Historical sites		C	C	C	P	C	C	C	P	P	P	€			(d)	
Libraries or archives					P	C	C	C	P			€			(d)	
Museums or art galleries					P	C	C	C	P			€			(d)	
Nature exhibitions					<u>P</u>	C	C			P	P	€			(d)	
Botanical gardens or arboretums					P	C	C			P	P	€			(d)	

		R-1	R-2	R-3	C	RST-1	RST-2	CS	CS-2	PR	PR-OC	PD	KC		Conditional Use Reference
Postal service															
	United States Postal Service				P							€			(e)
Recreation and entertainment															
	Community recreation, including sports activities, playgrounds and athletic areas or swimming areas (beaches and pools)				C	C	C		P	C	C				(f)
	Golf courses or country clubs									C	C				(f)
	Parks	P	P	P	P	C	C	C	P	P	P	€	P		(f)
	Motion picture and live theaters				C	C	C								(f)
	Recreation or vacation camps				C					C	C				(f)
	Recreational equipment storage				C	C	C	C	C	C	C				(f)
Religious, civic, professional and similar organizations															
	Business and professional organizations				P				P						
	Social or civic organizations, including youth organizations, sororities or fraternities				P				P						
	Church, synagogue, temple or religious assembly				P	P		P	P						
Utilities and waste-related uses															
Utility service, major															
	Electric substation				S	S	S	S		C					(ag)
	Electrical or telephone switching facilities							C							(g)
	Electricity or water maintenance facilities							P							
	Sewage pumping control stations	S	S	S	C	C	C	P		C	C	€			(g)
	Sewage sludge drying beds							P							
	Water pressure control stations				C	C	C	P		C					(g)
	Water or sewage treatment facilities							P							
	Water storage tanks							P				€			(ag)

		R-1	R-2	R-3	C	RST-1	RST-2	CS	CS-2	PR	PR-OC	PD	KC	Condition nal Use Referenc e
	Utility service, minor													
	Electric or gas power distribution	C	C	C	C	C	C	P		C	C	€		(g)
	Sewage collection service lines	C	C	C	C	C	C	P		C	C	€		(g)
	Commercial accommodations													
	Hotels or inns					C/S	C/S							(h)
	Financial services													
	Banks				C									(i)
	Financial services, including loan or lending services, savings and loan institutions or stock and bond brokers				C									(i)
	Food and beverage services													
	Bar or lounge (alcoholic beverages), including taverns, cocktail lounges or member exclusive bars or lounges				S	S	S							
	Catering services				C	C	C							(j)
	Restaurant, general, including cafeterias, diners, delicatessens, or full-service restaurants or accessory uses to a golf course, clubhouse or recreational area (without alcoholic beverages)				P	C	C		C	SC		€		(j)
	Restaurant, general, including cafeterias, diners, delicatessens, full-service restaurants or accessory uses to a golf course, club house, or recreational area (with alcoholic beverages)				C	C	C		C	C/S	S	€		(j)
	Information industries													
	Advertising services (not including advertising signs)				C						C/S			(k)
	News syndicate services				P									
	Radio and television broadcasting studios (only)				C	C	C							(k)
	Data processing services				P									

	R-1	R-2	R-3	C	RST-1	RST-2	CS	CS-2	PR	PR-OC	PD	KC	Condition nal Use Referenc e
Offices													
Real estate sales and services				P	P	P					€		(a)
Administrative or business office, including bookkeeping services, couriers, insurance offices, personnel offices, real estate services, secretarial services or travel arrangement or ticketing services				P				P					
Government offices				P			C	C			€		(a)
Legal and other professional services, including accounting, tax preparation, architectural or engineering				P									
Other nonresidential development													
Communications towers				C			C	C	C	C	€		(m)
Convention center, visitors bureaus or conference center				C		P	C/S	P					(n)
Parking													
<u>Parking Lot</u>				C/S	C/S	C/S			C/S	C/S			(v)
Repair and maintenance services													
Repair service, consumer, including appliance, shoe, watch, furniture, jewelry or musical instrument repair shops				C									(o)
Vehicle service, limited, including automotive oil change or lubrication shops or carwashes (enclosed area only)				€			€						(o)
Retail sales													
Nonstore retailers													
<u>Direct selling establishments</u>				€									{p}
<u>Electronic shopping or mail order houses</u>				€									{p}
Building materials or garden equipment and supplies retailers													
Hardware stores				€									(p)
Home improvement centers				€									

		R-1	R-2	R-3	C	RST-1	RST-2	CS	CS-2	PR	PR-OC	PD	KC		Conditional Use Reference
	Garden supplies centers or nursery and greenhouse retail centers				€										(p)
	Paint, varnish, glass or wallpaper stores				€										(p)
	Food sales, including grocery stores, meat markets or butchers, retail bakeries or candy shops				C					<u>C</u>					(p)
	Liquor, beer, or wine sales				C	<u>C</u>	<u>C</u>			<u>C</u>					(p)
	Retail sales or services, general														
	Antique stores				C										(p)
	Department store or limited price variety stores				C										(p)
	Art, hobby, musical instrument, toy, or related products stores				C	C	C								(p)
	Sporting goods or bicycle retail and rental				C	C	C								(p)
	Book, stationary, newspaper, or magazine retail				C	C	C								(p)
	Cameras or photographic supplies stores				C	C	C								(p)
	Clothing, piece goods, shoes, jewelry, luggage, leather goods or related products stores, florists				C	C	C			C					(p)
	Convenience stores (less than 5,000 square feet gross floor area per establishment)				C	C	C								(p)
	Drug stores or pharmacies (less than 5,000 square feet gross floor area per establishment)				C	C	C								(p)
	Electronics, appliance, electrical supplies or related products stores				€										(p)
	Furniture, cabinet, home furnishings, or related products stores				C										(p)
	Gifts, novelties and souvenir stores				C	C	C								(p)
	Optical goods				C										(p)
	Private postal or mailing services				C										(p)

	R-1	R-2	R-3	C	RST-1	RST-2	CS	CS-2	PR	PR-OC	PD	KC	Conditional Use Reference
Tobacconists				C	C	C							(p)
Service stations, gasoline (with or without convenience stores)				C									(p)
Retail or personal services													
Consumer convenience services													
Locksmiths				C									(p)
Tailors or seamstresses				C	C	C							(p)
Hair, nail, or skin care services, including barbershops or beauty salons				C	C	C							(p)
Personal improvement services, including health or physical fitness studios, reducing studios and spas				C	C	C							(p)
Photographic services, including one-hour photofinishing				C	C	C							(p)
Construction services													
Construction services							C						(q)
Warehouse and storage facilities													
Warehouse and storage facilities							C						(r)
Vehicle storage													
Vehicle storage, including boat or RV storage							C						(s)
Recycling services													
Recycling collection, dropoff							C	C					(t)
Transportation													
Taxistands / <u>Limousine / Rideshare</u>				C	C		C						(u)
Bus passenger stands				C	C	C							(u)

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

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

Sec. 12-103. Conditions of use.

(a) ~~(a)~~ Dwelling units in the PR-OC Zoning District may be attached to and integrated with non-residential buildings, but shall be no more than four dwelling units in any building for this district.

~~(a) Planned Development. Planned Developments shall follow the Planned Development provisions contained in sections 12-73 and 12-159, and the code text and zoning district map amendments provisions contained in section 12-158.~~

(b) ~~(b)~~ Educational services. Educational services are those services offered for the exclusive use of residents, on island employees and guests of Kiawah Island for instruction and care of their dependent children. The following conditions must be met for an educational services use:

- (1) Proof of application for the facilities license from the South Carolina Department of Social Services where appropriate;
- (2) Play areas within 50 feet of a residential zoning district shall be buffered pursuant to section 12-127;
- (3) Off-street parking requirements contained within this article are met and are buffered in accordance with section 12-128;
- (4) Site plans for ingress/egress, loading/unloading and the location of the parking areas are approved by the Planning Director; and
- (5) Proposed outdoor lighting of the facility does not negatively impact neighboring properties or the beachfront.

(c) Health care services. These services include medical clinics with outpatient services, physicians' and dentist's offices. Outpatient clinics, including offices for physicians or dentists, shall be limited to 2,000 square feet of floor area and shall not provide a base for emergency medical vehicles or service unless approved as a special exception pursuant to special exception provisions contained in this article.

(d) Museums, historical sites and similar institutions.

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

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- (4) Botanical gardens and/or arboretums shall be housed completely on the grounds of the principal use.
- (e) *Postal Service of the United States.* Any postal service facility shall have a maximum floor area of 5,000 square feet or less.
- (f) *Recreation and entertainment.* The following standards shall apply to approval of a site plan for community recreation, including, but not limited to, sports activities, playgrounds, athletic areas or swimming areas and recreation or vacation day camps:
- (1) All parks with soccer, baseball and similar playfields shall meet all off street parking requirements of section 12-128. The Planning Director shall determine the need for additional spaces based on available parking studies for similar uses in similar communities;
 - (2) All parking areas and recreational equipment storage areas shall meet the buffering requirements of section 12-127 and be screened from view from any adjacent residential use. Screening shall be opaque and shall be at least four feet in height. Screening may be masonry or natural materials if approved by the Planning Director;
 - (3) Small passive parks of one acre or less within residential neighborhoods shall have no parking requirements;
 - (4) Be designed so that light sources are shielded from adjacent single-family residential properties and the beachfront.
- (g) *Utilities and waste-related uses.*
- (1) Aboveground water storage tanks, sewage pumping stations, telephone relay towers, electric regulating substations and similar utility/communications structures shall comply with the following standards:
 - a. Facilities shall be located at least 50 feet from any residential property line;
 - b. Facilities shall be secured by a fence located at least 25 feet from any residential property line;
 - c. Facilities shall be surrounded by a buffer pursuant to section 12-127;
 - d. Telephone exchange stations and communications towers shall be limited to unmanned facilities, and shall provide at least two parking spaces for service vehicles; and
 - e. Radio transmitting stations and towers shall be set back from zoning district boundaries a distance equal to their height.
 - (2) Communications, utility distribution lines and water transmission lines shall be located underground in all districts.
 - (3) The equipment set forth in this subsection is permitted in all zoning districts. Aboveground equipment (e.g., pad-mounted transformers) shall be screened from public view:
 - a. Electrical pedestals.
 - b. Electrical pad-mounted transformers.
 - c. Electrical switch gear cabinets.
 - d. Electrical service meters.
 - e. Telephone equipment cabinets.
 - f. Telephone pedestals.
 - g. Irrigation controllers.

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- h. Backflow preventors.
 - i. Cable television amplifiers.
 - j. Other such similar equipment, typically installed above ground.
- (4) *Utility cabinets, utility structures.* For utility cabinets which measure approximately nine feet in length by six feet in width, and once installed, stand approximately five feet above grade, and for any other utility structures which the zoning administrator determines are similar in size and impact on the community shall be treated as accessory structures and the following standards shall apply:
- a. Structure shall not be located on property zoned for residential use and must be located a minimum of ten feet from any residential property line.
 - b. Structure shall be surrounded by a landscaped buffer, pursuant to section 12-127.
- (h) *Commercial accommodations.* Hotels or inns providing more than 50 guestrooms shall comply with the special exception provisions of this article or shall be a part of a development agreement.
- (i) *Financial services.*
- (1) Automated teller machines (ATM), stand-alone.
 - (2) ATMs shall be walk-up style and shall be permitted as accessory uses.
- (j) *Food and beverage services.*
- (1) *Bars, cocktail lounges, taverns.*
 - a. Bars or lounges, including taverns, cocktail lounges or member exclusive bars or lounges serving alcoholic beverages are only permitted in restaurants, private clubs, hotels, inns, or country clubs.
 - b. Where applicable, these uses shall comply with the special exception provisions of this article.
 - (2) *Catering services.* Catering service facilities shall only prepare and store food in permitted restaurants, private clubs, hotels, inns, or country clubs.
 - (3) *Restaurant, general.* All general restaurants not a part of a hotel, inn, golf course clubhouse, private club or country club and occupying over 2,000 square feet of floor area shall comply with the special exception provisions of this article.
 - (4) Café, coffee shop or snack bar may be permitted in the PR zoning district as an accessory use to the building's primary function.
 - (45) Restaurant, café, coffee shop or snack bar is only permitted in the CS-2 as an ancillary use to the building's primary function as office and meeting space.
 - (56) Be designed so that light sources are shielded from adjacent single-family residential properties, and property zoned R-2.
- (k) *Information industries.*
- (1) *Advertising services.* All advertising associated with this use shall be contained within the structure and not visible, except for any permitted sign, on the exterior of the structure.
 - (2) *Radio and television broadcasting studios.* All radio or television broadcast studios shall be located within a structure. No mobile radio or television broadcast stations are permitted as a permanent use. Temporary use permits may be granted if applicant complies with temporary use permit requirements.
- (l) *Government offices.* Government offices shall:

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- (1) Meet the buffer requirements of section 12-127;
 - (2) Provide off-street parking as required in section 12-128; and
 - (3) Be designed so that light sources are shielded from adjacent single-family residential properties.
- (m) *Communications towers.*
- (1) *Purpose and legislative intent.* The Federal Telecommunications Act of 1996 affirmed the Town of Kiawah Island's authority concerning the placement, construction and modification of wireless telecommunications facilities. The regulations of this section are designed to site communications towers on Kiawah Island. It is the intent of this article to allow for the harmonious co-existence of communications towers and other land uses. It is also the intent of this article to reduce the overall negative impact of communications towers by:
 - a. Reducing the number of towers needed through a policy of encouraging collocation; and
 - b. Encouraging the following, if collocation is not feasible:
 1. The use of stealth tower design, as defined in subsection (m)(3) of this section;
 2. The clustering of towers (tower farms);
 3. The placement of towers away from roadways;
 4. The provision of effective screening; and
 5. The location of communications equipment on existing structures.
 - (2) *Collocation exemption.* Proposed communications equipment collocating on existing towers and structures without adding to their height shall require only a zoning permit and shall not be subject to the requirements of this section.
 - (3) *Stealth tower provision.*
 - a. For the purposes of this section, the term "stealth tower" means a communications tower not exceeding 120 feet in height designed to unobtrusively blend into its existing surroundings so as not to have the appearance of a communications tower and is designed to hide, obscure, or conceal the presence of the towers and antennas. Examples of stealth towers include, but are not limited to, antenna tower alternative structures, architecturally roof-mounted antennas, building-mounted antennas painted to match the existing or proposed trees and landscaping, antenna structures designed to look like light poles or electrical utility poles, artificial trees, clock towers, flagpoles, steeples, water towers or water tanks.
 - b. All proposed stealth tower designs must be approved by the Planning Director.
 - c. A complete zoning permit application for a stealth tower that meets all requirements of this article shall be approved.
 - (4) *Preapplication meeting.* Prior to submitting a formal application for a zoning permit for a communications tower the applicant is required to attend one or more preapplication meetings. The purpose of the preapplication meeting is to address key issues which will help to expedite the review and permitting process. The Planning Director may conduct a site visit at the preapplication meeting.
 - (5) *Zoning permit submittal requirements.* Prior to zoning permit approval, all applications for communications towers shall complete the site plan review process as provided in section 12-162. In addition to any site plan review requirements, the application must contain the following items:
 - a. A site plan, drawn to engineer's scale, showing the location of the tower guy anchors (if any), existing or proposed buildings and structures or improvements, including parking, driveways or

access roads, fences and protected Grand Trees affected by the proposed construction. If there are no Grand Trees affected, a surveyor's statement on the site plan must be shown. Adjacent land uses shall also be noted on the site plan, with precise measurements noted between the proposed tower and any residential structures on surrounding properties.

- b. The site plan must show a vegetated buffer, either existing or installed, that provides an effective screen from public rights-of-way and adjacent property owners and across view corridors. If a buffer is to be installed, its placement on the site will vary in order to provide the most effective screening from public view. Required materials will be based on installation of a 25-foot buffer around the fenced area.
- c. The height and typical design of the tower, typical materials to be used, color, and lighting shall be shown on elevation drawings. The applicant shall submit documentation justifying the total height of any communications towers, facility and/or antenna and the basis therefor.
- d. Additionally, color and material samples shall be provided. The tower must be located no closer to a residential structure than a distance equal to 1.5 feet for each foot in height of the proposed tower plus 50 feet as measured from the center of the proposed tower. At a minimum, there must be a 150-foot distance between the proposed tower and a residential structure.
- e. A six-foot nonclimbable fence must be placed around the tower and any associated building. Guy wires may be fenced separately.
- f. The proposed tower must be located such that adequate setbacks are provided on all sides to prevent the tower's fall zone from encroaching onto adjoining properties. The fall zone shall be determined by an engineer certified by the State of South Carolina in a letter which includes the engineer's signature and seal.
- g. For the purposes of collocation review and review of efforts at siting a tower on the same lot near an existing tower, the applicant shall submit satisfactory written evidence such as correspondence, agreements, contracts, etc., that alternative towers, buildings, or other structures are not available or suitable for use within the applicant's tower site search area that are structurally capable of supporting the intended antenna or meeting the applicant's necessary height criteria, providing a location free of interference from other communication towers, or available at the prevailing market rate (as determined by staff communication with persons doing business within the industry). Additionally, the applicant shall make every effort to build the proposed tower in such a manner as may allow other telecommunication users to collocate.
- h. Proposed towers may not be located within 1,000 feet of the center of an existing tower unless the applicant certifies that the existing tower does not meet the applicant's structural specifications and the applicant's technical design requirements, or that a collocation agreement could not be obtained at a reasonable market rate. In the event of the situation set forth in this subsection, the clustering of new towers on the same parcel near existing towers is permitted.
- i. The proposed tower shall only be illuminated as required by the Federal Communications Commission or Federal Aviation Administration. Nighttime strobe lighting shall not be incorporated unless required by the Federal Communications Commission or Federal Aviation Administration. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting that shall be as unobtrusive and inoffensive as permissible under state and federal regulations, and an artist's rendering or other visual representation showing the effect of light emanating from the site on neighboring habitable structures within 1,500 feet of all property lines of the parcel on which the communications towers are located.
- j. Communications towers shall contain a sign no larger than four square feet to provide adequate notification to persons in the immediate area of the presence of an antenna that has

transmission capabilities. The sign shall contain the names of the owners and operators of the antennas, as well as emergency phone numbers. The sign shall be located so as to be visible from the access point of the site. No other signage, including advertising, shall be permitted on any facilities, antennas, antenna supporting structures or antenna towers, unless required by law.

- k. A copy of the tower's search ring.
 - l. To ensure the removal of towers which do not meet requirements for continued use or proper maintenance, a statement of financial responsibility shall be submitted for each tower and a performance bond for the amount of anticipated removal costs shall be posted. The bond must be renewed as necessary to ensure that it is maintained at all times during the existence of the tower.
 - m. The applicant shall furnish a visual impact assessment which shall include:
 - 1. A zone visibility map which shall be provided in order to determine locations where the tower may be seen.
 - 2. Pictorial representations of before and after view from key viewpoints both inside and outside the Town including, but not limited to:
 - (i) Major highways and roads;
 - (ii) State and local parks;
 - (iii) Historic districts;
 - (iv) Preserves and historic sites normally open to the public; and
 - (v) Any other location where the site is visible to a large number of visitors, travelers or residents.
 - 3. An assessment of the visual impact of the tower base, guy wires and accessory buildings from abutting and adjacent properties and streets
- (6) *Retention of expert assistance and reimbursement by the applicant.*
- a. The Town may hire any consultant and/or expert necessary to assist the Town in reviewing and evaluating the application, including the construction and modification of the site, once permitted, and any requests for recertification.
 - b. An applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of the consultant and expert evaluation and consultation to the Town in connection with the review of any application including the construction and modification of the site, once permitted. The initial deposit shall be \$8,500.00. The application will not be processed until receipt of this initial deposit. The Town will maintain a separate escrow account for all such funds. The Town's consultants/experts shall invoice the Town for its services in reviewing the application, including the construction and modification of the site, once permitted. If, at any time during the process this escrow account has a balance less than \$2,500.00, the applicant shall immediately, upon notification by the Town, replenish said escrow account so that it has a balance of at least \$5,000.00. Such additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the application. In the event that the amount held in escrow by the Town is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant. The applicant shall not be entitled to receive any interest earnings on unused funds.
 - c. The total amount of the funds needed as set forth in subsection (m)(6)b of this section may vary with the scope and complexity of the project, the completeness of the application and other

information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.

(7) *Surrounding property owner notification.*

- a. In order to better inform the public, in the case of a new communications towers, the applicant shall hold a balloon test as follows:
 1. Applicant shall arrange to fly, or raise upon a temporary mast, a minimum of three-foot diameter brightly colored balloon at the maximum height of the proposed new tower.
 2. The dates, (including a second date, in case of poor visibility on the initial date) shall be provided to the Planning Director ten days after receipt of the complete application notice.
 3. The dates shall be set at minimum 15 days prior to the Planning Director making a final decision on the zoning permit.
 4. The balloons shall be flown for ten consecutive hours between 8:00 a.m. and 6:00 p.m.
- b. Once the application is deemed complete by the Planning Director for a communications tower zoning permit, the Planning Department shall provide parties in interest, personal, posted and newspaper notice in accordance with the requirements of section 12-156. The public notice shall include the dates of the balloon tests as provided by the applicant and the date the Planning Director must make a final decision on the zoning permit.

(8) *Time limit for staff review.* Upon receipt of an application deemed complete by the Planning Director for a communications tower zoning permit, the Planning Director shall have a maximum of 45 days to act on the application. The 45 days begins from the date the applicant is sent written notice of a complete application from the Planning Director. Failure to act on the application within 45 days will result in the applicant being granted a zoning permit.

(9) *Zoning permit approval criteria.*

- a. A complete zoning permit application for a stealth tower that meets all requirements of this article shall be approved.
- b. Upon review of a complete application, no zoning permit shall be issued for a communications tower, until the Planning Director determines that the proposed tower complies with the following criteria and standards:
 1. The location and height of the proposed tower will not substantially impact the character of property listed in or eligible for the National Register of Historic Places, other significant environmental, cultural or historical site officially designated scenic roads or rivers and that the tower is designed to blend into the environment and minimize visual impact.
 2. If a completely new tower is necessary, the applicant must provide written proof of attempts at collocation and siting a tower on the same lot near an existing tower were proven not feasible or practical.
 3. The applicant has pursued any available publicly owned sites and privately owned sites occupied by a compatible use, and if not utilized, that these sites are unsuitable for operation of the facility under applicable communications regulations and the applicant's technical design requirements.
 4. Staff shall review and approve the color and materials to be used for the proposed tower.
 5. If the Planning Director finds a proposed communications tower will have a substantially negative impact on a surrounding area or adjoining property, the use shall fall under the special exception (S) provisions of this article.

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- c. In determining whether the use shall fall under the special exception (S) provisions the Planning Director may consider one or more of the following items:
1. The proposed use will be detrimental to adjacent land uses including historical sites;
 2. The proposed use will have a negative aesthetic visual impact;
 3. The proposed use will have an adverse affect on the environment (not including radio frequency emissions); and
 4. The proposed use is contrary to the public health, safety or welfare.
- (10) *Tower abandonment.* A tower that is not used for communication purposes for more than 120 days (with no new application on file for any communication user) is presumed to be out of service and the owner of such tower must notify the staff and remove the tower within 50 days. Towers which are not maintained by the owner according to the Town building code shall be removed by the owner within 60 days. To ensure the removal of towers which do not meet requirements for continued use or proper maintenance, a statement of financial responsibility shall be submitted for each tower and a performance bond for the amount of anticipated removal costs shall be posted. Removal costs shall be charged to the tower owner. The bond must be renewed as necessary to ensure that it is maintained at all times during the existence of the tower.
- (n) *Convention center or visitors bureau.* The convention center or visitors bureau using over a total of 10,000 square feet must comply with the special exception provisions of this article.
- (o) *Repair and maintenance services.*
- (1) *Consumer repair services.* Consumer repair services, including repair and servicing of appliances, shoes, watches, furniture, jewelry, musical instruments or similar items, may only occur within an enclosed structure. No noise or other emissions from the structure are permitted.
 - (2) *Vehicle service.* Limited vehicle service, including automotive oil change or lubrication operations and shall be conducted within an enclosed building. Vehicle storage shall be located in an enclosed building or in an opaquely screened yard.
- (p) *Retail sales and retail or personal services.* Retail sales, display and storage of goods are permitted only within a designated building for that particular use.
- (1) Personal improvement services shall be included as a permitted use as within the PR category as accessory to golf clubhouses, or other private club amenities within a designated building for such uses.
- (2) Fuel stations shall have no more than six fuel bays and shall be buffered and screened from any right of way with landscaping and architecturally integrated fencing approved by the Planning Director.
- (3) Liquor, beer, or wine sales may be permitted as an accessory use to resort or golf clubhouses.
- (q) *Construction services.* Contract construction services operations (e.g., contractor's shops, plumbing shops, heating and air conditioning shops, etc.) excluding construction sites for authorized development activities, shall be conducted within an enclosed building. Authorized development activities, for the purpose of this section, include the permitted installation, construction of buildings, structures or utilities at the site on which they will be used. Vehicle, equipment and materials storage at construction services offices shall be located in an enclosed building or in an opaquely screened yard.
- (r) *Warehouse and storage facilities.* Warehouse and storage facilities shall be designed so that all stored items are located within a completely enclosed building, or are completely screened from view from adjacent property lines. Portable storage units shall not be allowed to remain on any property for more than 72 hours within a week.

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- (s) *Vehicle storage, including boat or recreational vehicle storage.*
- (1) Storage of boats, campers and other major recreational equipment, if provided, must be contained within completely enclosed buildings or opaquely screened storage areas on an approved lot. No such equipment shall be used for living, sleeping or housekeeping purposes.
 - (2) Canoes and kayaks may be stored in a semi-enclosed storage rack which is suitably landscaped.
- (t) *Recycling services; recycling collection, dropoff.* Recycling collection and dropoff structures are limited to the following:
- (1) Maximum dimensions: Nine feet in length by six feet in width, and once installed, stands no more than five feet above grade.
 - (2) Structure shall not be located on property zoned for residential use and must be located a minimum of ten feet from any residential property line.
 - (3) Structure shall be surrounded by a landscaped buffer, as determined by the Planning Director pursuant to section 12-127.
- (u) *Transportation; bus passenger stands and rideshare zones.* The design and location of bus passenger stands shall only be approved after completing the site plan review procedures contained within section 12-162.
- (v) *Parking Facilities. All parking facilities shall comply with Sec. 128 Access, parking and loading regulations and standards of Sec. 12-127. Compatibility Buffering. Parking facilities shall be of a pervious material as approved by the Planning Director. Parking facilities not associated with minimum parking requirements for a proposed development and including more than 10 spaces shall be approved as a special exception pursuant to special exception provisions contained in this article.*

(Code 1993, § 12A-302; Ord. No. 2005-08, § 12A-302, 10-12-2005; Ord. No. 2006-08, § 2.1(12A-302), 11-7-2006; Ord. No. 2016-04, § 1, 9-6-2016; Ord. No. 2023-22, § 2(Exh. A), 11-28-2023)

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

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

- (1) *Definition and applicability.*
 - a. The terms "permitted uses" and "approved special exception uses" include accessory uses and structures that are necessarily associated with, and appropriate, incidental and subordinate to, the allowed principal use. Accessory uses and structures shall be subject to the same regulations that apply to principal uses and structures in each zoning district, unless otherwise expressly stated.
 - b. Permits for accessory uses and structures shall be issued by the Town of Kiawah Island Planning Director.
 - c. In a residential zoning district, an accessory building or structure is a subordinate or incidental structure, attached to or detached from the principal building, which is not used for commercial purposes and which is not rented.
 - d. In nonresidential zoning districts, an accessory building or structure is a subordinate building or structure, the use of which is secondary to and supportive of the principal building.

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- e. Accessory buildings or structures shall not be permitted without a principal building or primary use being in existence.
 - f. Accessory uses include any use that is authorized in the district which is secondary or subordinate to the primary use.
- (2) *Standards for detached accessory dwelling units in residential districts.* An accessory dwelling unit to be occupied by family members or caretakers may be allowed as an accessory use to the principal dwelling unit under the following conditions:
- a. No detached accessory dwelling unit may be constructed on a lot less than 15,000 square feet;
 - b. The detached accessory dwelling unit may not be sold separately from the sale of the entire property, including the principal dwelling unit, and shall not be leased or sublet;
 - c. The detached accessory dwelling unit shall comply with all required building setbacks for the principal residential use and shall be located in the buildable area of the lot;
 - d. The overall height of a detached accessory dwelling shall be limited to one story, provided that an accessory dwelling may be located over a garage;
 - e. When the accessory dwelling is directly attached to the principal dwelling with a roof connection of a minimum of four feet in width, or a wall connection of a minimum of four feet in height, it shall be considered an integral part of the main building; and
 - f. Detached accessory dwellings shall not exceed 1,500 square feet of heated area.
- (3) *Standards for accessory dwelling units in existing structures and nonresidential districts.*
- a. Accessory dwellings for nonresidential structures shall be solely for use by fulltime caretakers of the structure. Such dwellings shall have at least one access through the business that employs the caretaker.
 - b. The overall height of an accessory dwelling shall be limited to one story, provided that a garage apartment or nonresidential caretaker's quarters may be located over a garage.
- (4) *Standards for accessory buildings in residential districts.* Accessory buildings may be allowed in residential zoning districts pursuant to the following conditions:
- a. No accessory building may be constructed on a lot less than 15,000 square feet;
 - b. Detached accessory buildings shall be prohibited from being placed in front of the principal building and shall be placed in the rear yard. Except that a detached accessory use may be constructed in front of the principal residence where the residence backs up to a beach, golf course, lagoon or marsh and is only permitted after approval as a special exception. Accessory buildings will be located within the buildable area of the lot as delineated by the setback requirements;
 - c. Subleasing or renting an accessory building separately from the primary use shall constitute a violation of this article.
- (5) *Standards for accessory structures in residential districts.* Accessory structures may be allowed in residential districts under the following conditions:
- a. Private swimming pools, along with incidental installations such as pumps and filters, may not be located in the front yard. Any pool equipment shall be properly screened. A pool including vanishing edges and associated discharge troughs or catch basins shall be set back a distance of not less than ten (10) feet from all lot lines, except that a pool adjacent to a BCM Critical Line shall be set back a distance of not less than fifteen (15) feet from a critical line. A pool including

vanishing edges and associated discharge troughs or catch basins that is elevated more than four feet above the average natural ground level at the nearest property line shall comply with required building setbacks. All swimming pools shall be gated and enclosed by a fence, wall, building, or other enclosure and fenced. The fence or other enclosure height shall be five-four feet.

- b. Private tennis courts shall not be constructed within 20 feet of any adjoining property under other ownership. Tennis court fences or walls shall not exceed 12 feet in height, and no lights for the tennis court shall be permitted.
- c. Fences shall be limited to landscaped hedgerows of dense plant material and/or wooden, masonry or wrought-iron metal material, all of which are required to be architecturally integrated with development of the lot or parcel. Fences shall not exceed five feet in height from grade for residential development; provided, however, that this five-foot height restriction shall not apply to the hedgerow portion of any fence or to a fence consisting completely of a hedgerow. This five-foot height restriction shall apply to any gate or gates in any fence of any kind. Solid wood fences shall not be permitted in front yards. Fences (excluding the use of plant material) shall not be permitted within five feet of a side or rear property line. Fences taller than three feet from pavement shall not be located within a sight triangle. Fence heights and setback restrictions shall not apply to the patio wall of patio homes. In measuring the height of a fence to determine whether it complies with the height restrictions, the measurement shall be made to the uppermost portion of the fence, and, if there is anything affixed to or regularly placed or resting thereon, including, without limitation, decorative or ornamental elements or features, all of which shall be considered a part of the fence for the purposes of this section, then the height measurement shall be to the top of any such thing, element or feature.

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

Sec. 12-105. Home occupations.

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

- (1) All home occupations must comply with the following conditions:
 - a. The use of the dwelling unit in connection with an occupation shall be deemed to be clearly incidental and subordinate to its use for residential purposes if the home occupation occupies no more than 25 percent of the heated and cooled square footage of the residence, and no more than 25 percent of the garage or other enclosed areas which may be utilized to store supplies or materials associated with the home occupation.
 - b. No employees other than persons residing on the premises shall be engaged in the activities of the home occupation.
 - c. There shall be no exterior displays, no exterior storage of equipment, including unlicensed equipment and materials, vehicles with business logos, and no exterior indication of the home occupation which may change the outside appearance of the principal residence or change the residential character of the building.
 - d. No on-premises advertising for the home occupation shall be allowed, nor shall advertisement of the address of the property to attract customers, clients or the public to the premises allowed.

Window areas must not purposely or intentionally be used as display areas or offer merchandise for sale.

- e. Home occupations shall not require internal or external structural alterations of the principal residence or require the installation of equipment or machinery creating utility demand, noise, fumes or other impacts in excess of equipment or machinery that is customary in a residential area.
 - f. The home occupation shall take place entirely within the residential dwelling.
 - g. No open lot storage shall be permitted in connection with a home occupation.
 - h. No pedestrian or vehicular traffic shall be generated by the home occupation.
 - i. No home occupation requiring any equipment or processing which creates noise, vibration, glare, fumes, odors, smoke or dust which disturb neighbors and/or alters the residential character of the premises shall be permitted.
 - j. No electric devices may be used in any home occupation which may cause electrical interference or create visual and audible interference in any radio or TV receivers causing fluctuations in the line voltage off the premises.
 - k. Delivery trucks shall not operate out of a residential area as a function of a home occupation.
 - l. Offices for professional or business activities may be permitted; provided, however, that they adhere to the provisions of this article and that they do not violate any condition prescribed herein.
- (2) The following occupations, professions, and business activities and those of a similar nature are some of, but not intended to be a complete list of prohibited home occupations:
- a. Clinics, hospitals;
 - b. Funeral homes, mortuaries;
 - c. Animal/veterinary clinics;
 - d. Restaurants;
 - e. Large scale repair services;
 - f. Construction activities;
 - g. Ambulance services;
 - h. Taxi services;
 - i. Beauty salons, barbershops; and
 - j. Vehicle sales or parts sales.
- (3) This section does not permit the establishment of unlisted home occupations unless they comply with all other standards and conditions of this article.

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

Sec. 12-106. Temporary uses.

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

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- (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. Temporary buildings and temporary material storage areas for construction purposes located on the project site shall be approved as part of the site plan review. For any temporary buildings or material storage areas situated off-site, a separate permit is required. This separate permit must be approved independently of the site plan review process.
 - b. The site may not be permanently altered in any manner, by e.g., removal of "trees" (as defined in section 12-374, Definitions) or vegetation. However, trees of two DBH inches or less or minor vegetation for proposed temporary uses, which do not require grading or land disturbance activities that alter existing site conditions, may be removed as determined by the Planning Director, if such trees are replaced with a similar/like kind planting of the same DBH inches of trees removed. Replacement trees shall be approved by the Planning Director prior to removal.
 - 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 construction or expiration of the permit, such temporary buildings and building material storage areas shall be removed and the site shall be restored to its pre-existing condition to the satisfaction of the Planning Director. The Planning Director may require the planting of additional vegetation to satisfy this requirement.
 - (3) *Special events.*
 - a. A temporary zoning permit shall be issued for public assembly use and for events of public interest. Temporary zoning permits shall be issued for a specific period of time in accordance with a permit issued by the Planning Director, subject to periodic renewal for cause shown. Such permit may be extended by the Planning Director. Examples of special events include: Concerts, religious and/or cultural events, sports tournaments or competitions, and parking for special events.
 - b. Temporary buildings associated with special events may be used on the site which the event is to take place.
 - c. Such buildings shall be permitted for a specific period of time in accordance with a permit issued by the Planning Director, subject to periodic renewal for cause shown.
 - d. Temporary permits shall be issued only if adequate parking and sanitation facilities are provided to serve the proposed use or activity.
 - e. Upon completion or abandonment of the special event or expiration of the permit, such temporary buildings and associated equipment shall be removed to the satisfaction of the Planning Director.

(Code 1993, § 12A-305; Ord. No. 94-12, § 2(12A-316), 9-26-1994; Ord. No. 2005-08, § 12A-305, 10-12-2005; Ord. No. 2024-08, § 2(Exh. A), 6-4-2024)

Secs. 12-107—12-125. Reserved.